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Letter dated 13 November 2008 from the Secretary-General to the President of the Security Council

Pursuant to Security Council resolution 1031 (1995), I have the honour to convey the attached letter dated 10 November 2008, which I received from the High Representative for Bosnia and Herzegovina (see annex), transmitting the thirty-fourth report on the implementation of the Peace Agreement, covering the period from 1 April 2008 to 31 October 2008.

I should be grateful if you would bring the present letter and its annex to the attention of the members of the Security Council.

(*Signed*) **Ban** Ki-moon

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Annex

Letter dated 10 November 2008 from the High Representative for Bosnia and Herzegovina and European Union Special Representative to the Secretary-General

Pursuant to Security Council resolution 1031 (1995), in which the Council requested the Secretary-General to submit to it reports from the High Representative in accordance with annex 10 of the General Framework Agreement for Peace in Bosnia and Herzegovina and the Conclusions of the London Peace Implementation Conference of 8 and 9 December 1995, I herewith present to you the thirty-fourth report (see enclosure). I would ask for this report to be distributed to the members of the Security Council for their consideration.

This is my third report to the Secretary-General since assuming the office of the High Representative for Bosnia and Herzegovina (and European Union Special Representative) on 2 July 2007. The present report covers the period from 1 April to 31 October 2008

Should you or any Council member require any information beyond what is offered in the attached report or have any questions regarding its contents, I should be pleased to provide further information.

(*Signed*) Miroslav **Lajčák**
High Representative and European Union Special Representative
in Bosnia and Herzegovina

Enclosure

Thirty-fourth report of the High Representative for Bosnia and Herzegovina

1 April-31 October 2008

Summary

This report covers the period from 1 April to 31 October 2008. During the last seven months Bosnia and Herzegovina has taken an important step forward in its efforts to move towards the European Union (EU) when it adopted police reform legislation in mid-April. The adoption of these laws enabled the country to sign on 16 June a Stabilization and Association Agreement (and an accompanying Interim Agreement) with the EU, the first contractual relationship with the EU necessary to achieve candidate status and possible accession to the Union.

Regrettably, this important step has not led to a change in the way politics are conducted in Bosnia and Herzegovina. Instead, nationalist, anti-Dayton rhetoric challenging the sovereignty, territorial integrity and constitutional order of Bosnia and Herzegovina, as well as the authority of the High Representative and the Steering Board of the Peace Implementation Council, have continued to dominate politics in Bosnia and Herzegovina. Of particular note are the ongoing attacks by the Republika Srpska government against State institutions, competencies and laws. Together with provocative statements from the Bosniak side questioning the right of the Republika Srpska to exist, this has served to further undermine inter-ethnic trust, creating a cycle where it is more and more difficult for the country's political leaders to meet each other half way so that they may make the decisions needed to take the country forward.

After making some welcome initial progress between April and June towards delivering on the five objectives and two conditions set by the Steering Board of the Peace Implementation Council, particularly objectives 2, 3 and 4 and the first condition, in February 2008 for the transition of the Office of the High Representative to a stand-alone EU Special Representative, the authorities in Bosnia and Herzegovina have hardened their positions since July on the two substantial and crucial objectives regarding State property and completion of the Brcko District Final Award.

The Steering Board declaration of 25 June 2008 may be found on the website or the Office of the High Representative (http://www.ohr.int/pic/default.asp?content_id=41874). Four months after its adoption, given the continued attacks on Bosnia and Herzegovina and its institutions, it continues to reflect the justified concern of the international community about the overall political situation in Bosnia and Herzegovina.

The European Union Military mission in Bosnia and Herzegovina (EUFOR) continues to contribute to a safe and secure environment in Bosnia and Herzegovina. EUFOR is as an important factor of stability in Bosnia and Herzegovina at a time when the political situation is far from stable. For these reasons, the mandate of EUFOR should be extended. I have also recommended its extension to the EU and its member States.

I. Introduction

1. This is my third report to the Secretary-General since assuming the Office of High Representative for Bosnia and Herzegovina and EU Special Representative on 1 July 2007. In keeping with past practice, the present report assesses progress made towards attaining the goals outlined in previous reports, reviews developments during the reporting period, and provides my assessment of mandate implementation in the most important areas. Following the decision of the Steering Board of the Peace Implementation Council in February 2008 to specify five objectives and two conditions that must be achieved or met by the authorities of Bosnia and Herzegovina before there can be a transition from the Office of the High Representative to an office of the EU Special Representative, the focus of my efforts has been on facilitating progress on this front, although much of my time has been focused on addressing negative developments, in particular anti-Dayton rhetoric challenging the sovereignty, territorial integrity, and constitutional order of the country as well as related attacks on Bosnia and Herzegovina State institutions.

II. Political update

General political environment

2. In April, two police reform laws were adopted by the Parliamentary Assembly of Bosnia and Herzegovina. These laws came into force on 14 May. This long-awaited progress opened the way for Bosnia and Herzegovina to sign a Stabilization and Association Agreement and Stabilization and Association Agreement Interim Agreement with the EU on 16 June. The Interim Agreement entered into force on 1 July 2008. The Bosnia and Herzegovina Parliamentary Assembly ratified the Stabilization and Association Agreement in October, but it still awaits a ratifying signature by the presidency of Bosnia and Herzegovina.

3. Despite the negative political atmosphere, an agreement was reached in May on voter rights for voters from Srebrenica. Amendments to the Election Law of Bosnia and Herzegovina were adopted that month, which allowed all who were residents in Srebrenica in 1991 to have the option of casting votes for that municipality (irrespective of their displaced person status) in the 2008 municipal elections only.

4. Regrettably, these positive developments were short-lived. Nationalist rhetoric continued to dominate politics at all levels throughout the reporting period. The municipal election campaign provided for a further hardening of positions on all sides, with the Prime Minister of the Republika Srpska, Milorad Dodik, and the then Chair of the Bosnia and Herzegovina Presidency, Haris Silajdzic, continuing to undermine the political situation through their public statements after the elections. The increase of Republika Srpska political and legal attacks on the State and its institutions in the field of transfer of competencies or in the form of legislative initiatives has also been a major concern.

5. In July, the nationalist rhetoric was met with a response from Federation-based parties when a senior member of the Party of Democratic Action (SDA), Bakir Izetbegović, stated that it would be much better for the Peace Implementation

Council to react to Dodik's anti-Daytonism, "to sanction such attempts [than for] Bosniaks to have to fight for Bosnia and Herzegovina in our own ways".[1]

6. In this political situation, the six parties in the coalition at the State level met on 23 August. Not surprisingly, they were unable to make any headway on the reform agenda. Given the prevailing political situation, the fact that the leaders had avoided a confrontation only a few months before the election was seen as a positive sign. The single new issue on their agenda was the census, upon which the Republika Srpska has been insisting that ethnic and religious affiliation be included even though it is not an EU requirement to include such elements. The issue also fell victim to rhetoric, with the Republika Srpska threatening to hold its own "census" if Bosnia and Herzegovina authorities fail to do so. A Serbian Democratic Party (SDS) initiative on an ethnically based census was defeated in the House of Peoples of Bosnia and Herzegovina on 27 October.

7. On 20 September, the SDA Main Board adopted a declaration that contains a call for a return to the Constitution of the Republic of Bosnia and Herzegovina, if the Office of the High Representative is closed before the full implementation of the Dayton Peace Agreement. The SDA assertion is based upon a decision of the Republic of Bosnia and Herzegovina Parliamentary Assembly of 12 December 1995 accepting the new Dayton constitution with that proviso, prior to signing the Dayton Peace Agreement in Paris on 14 December 1995. Such a call constitutes a threat of unilateral change to the Constitution of Bosnia and Herzegovina, which is contained in annex 4 of the Dayton Peace Agreement, and is therefore unacceptable.

8. Also in September, President Silajdzic embarked on a round of unilateral addresses, giving speeches to the United Nations General Assembly and to the Parliamentary Assembly of the Council of Europe, which had not been cleared with the other two members of the Bosnia and Herzegovina Presidency. Silajdzic's speeches caused considerable controversy in the Republika Srpska because of their emphasis on the genocide committed in Srebrenica in 1995. In response to the speeches, the Republika Srpska organized a special session of its National Assembly.

9. Croat political players were not immune from commenting on the country's constitutional order, although they did so mostly in the context of presumed constitutional reform discussions. In July, the leaders of both the Croatian Democratic Union of Bosnia and Herzegovina (HDZ BiH) and HDZ 1990, Dragan Covic and Bozo Ljubic, respectively, made the almost identical comment that a (presumably Croat-dominated) third entity was an option. They stated, however, that that could only be the case as a result of agreement between all three constituent peoples.

10. Republika Srpska officials also took noteworthy positions on the status of the Republika Srpska and the High Representative. Although the Republika Srpska Prime Minister, in an interview in late June, was very careful not to answer directly a question on Republika Srpska independence, because of a stated fear of removal, he did say that the Republika Srpska "would remain [a] sovereign State".[2]

[1] *Dnevni Avaz*, 14 July 2008.

[2] See Slovak newspaper *Hospodarske Noviny*, 30 June 2008.

11. On a more positive note, the 5 October municipal and Brcko District elections took place without major incidents. Overall, the election outcome did not hold any major surprises, although it is notable that the parties whose leaders had been most active against constitutional reform measures in April 2006 lost the most votes compared to their results in 2006 (general elections), while nationalist parties that espoused anti-Dayton rhetoric, while remaining central, did lose absolute numbers of voters.

12. On 15 October, the Republika Srpska National Assembly held a special session in response to President Silajdzic's speeches to the United Nations and the Council of Europe. At that session, it reaffirmed its conclusions of 22 February, wherein it considered that it has the right to a referendum on Republika Srpska independence, and adopted the "information" document of the President of the Republika Srpska that attributes "sovereignty" to the Republika Srpska and the "right" to hold a referendum on independence.

13. The characterization of the Republika Srpska as a State is anti-Dayton, not least because it runs counter to the ruling of the Constitutional Court of Bosnia and Herzegovina, which states that the Constitution of Bosnia and Herzegovina does not afford the entities sovereignty or indeed the right to "self-organization" on the basis of territorial separation. The latter characterization of Bosnia and Herzegovina as a common or joint State has not, surprisingly, raised concerns about the fact that the Republika Srpska believes it has the right to withdraw from Bosnia and Herzegovina and could continue to exist outside of Bosnia and Herzegovina. I clearly warned, in advance, against the anti-Dayton nature of the claim as well as any competence for this body to formulate such a claim.

14. While there has been negative rhetoric from all quarters as outlined above, Republika Srpska representatives have directly challenged the State through legislative initiatives. A number of concrete examples exist in the field of transfer of competencies, including the Missing Persons Institute, the Electricity Transmission Company (TRANSCO) and the Independent System Operator in Bosnia and Herzegovina, the Central Bank, the Indirect Tax Authority and the State Ombudsman, which are detailed below.

15. Throughout the reporting period Republika Srpska Prime Minister Dodik repeatedly claimed falsely that a large but indeterminate number of entity competencies had been "stolen" from the Republika Srpska and "imposed" at the State level by the Peace Implementation Council. In late June, he stated that, "under pressure", the Republika Srpska authorities transferred competencies to the State and that "we are no longer willing to give up on further authorities. On the contrary, we are considering which of these authorities we want back".[3] That statement of intent runs counter to the Peace Implementation Council declaration of October 2007,[4] and has served to undermine State building efforts undertaken thus far. It is worth noting that the statement marks a distinct change of policy on the part of Dodik's ruling party Alliance of Independent Social Democrats (SNSD), which

[3] See Slovak newspaper *Hospodarske Noviny*, 30 June 2008.

[4] "The Steering Board also re-emphasizes its concern regarding suggestions that certain reforms could be reversed unilaterally by entity decisions retrieving competencies previously transferred to the State. An entity cannot withdraw unilaterally from a previously agreed reform. The consolidation of the State level institutions must continue."

voted for all previous transfer agreements,[5] both while in opposition and in government.

16. The readiness of the Republika Srpska to meet these obligations was further called into question on 27 October when Prime Minister Dodik wrote to the High Representative informing him that he had hired a United States law firm to represent him in relation to the implementation of the Dayton Peace Agreement and the activities of the Office of the High Representative. The High Representative replied on 29 October "that the mandate and the work of the High Representative is a matter for the Peace Implementation Council and its Steering Board, as well as the United Nations Security Council. It is not a matter for a private entity." He further underlined that the Republika Srpska has the obligation in relation to the Dayton Peace Agreement to cooperate fully with the High Representative and his staff. The action of the Republika Srpska is yet another retrograde step and reflects the growing difficulties the Office of the High Representative is encountering from the Republika Srpska when it comes to meeting its obligations to cooperate with the High Representative under annex 10 of the Dayton Peace Agreement.

17. Public statements continued to be made on the issue of State competencies, culminating with a speech by Republika Srpska Prime Minister Dodik (wherein it was stated that the number of contested but unspecified competencies exceeded 60) and new conclusions stemming from the extraordinary session of the Republika Srpska National Assembly on 15 October. Ostensibly, the conclusions restated an SNSD election promise to regulate the transfer of competencies from entity to the State. However, they also subtly shifted and expanded the scope. Regulation by the Republika Srpska National Assembly on Republika Srpska to State transfers is acceptable. However, the Constitution of Bosnia and Herzegovina assigns no role to the Republika Srpska in regulating the competencies of the State.

18. On 29 October, the Minister for Foreign Affairs of France, Bernard Kouchner, representing the EU Presidency, the Secretary-General of the European Council, Javier Soluna, and the European Commissioner, Olli Rehn, addressed a letter to the three members of the Bosnia and Herzegovina Presidency and the Prime Ministers of Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina and the Republika Srpska. In the letter they stressed the responsibilities deriving from the stated priority of Bosnia and Herzegovina of moving closer to the EU (and of signing the Stabilization and Association Agreement), warned against statements and acts challenging the structure of the State as defined by the Dayton Peace Agreement, and urged the addressees to demonstrate through acts and compromise their commitment to the country's future in the EU.

III. European Partnership requirements

19. Following the long-awaited adoption of two police reform laws in mid-April, Bosnia and Herzegovina signed the Stabilization and Association Agreement and the Stabilization and Association Agreement Interim Agreement with the EU on 16 June. Beyond this, progress has been slow in adopting and implementing the EU legislative agenda. The Bosnia and Herzegovina Council of Ministers adopted an

[5] Agreements in the areas of defence, the Indirect Tax Authority, the Missing Persons Institute, and the High Judicial and Prosecutorial Council.

incomplete European Partnership Action Plan, after serious delays, only in October. The work of the Bosnia and Herzegovina Parliamentary Assembly continues to reflect the inability of political leaders to meet each other halfway so that they may take the decisions required to ensure the country's progress towards EU membership. This is in danger of becoming a medium-term problem. In the first two years of its mandate, the Parliamentary Assembly adopted a total of 22 laws.[6] By comparison, it adopted 80 new laws in the same period in the previous mandate.[7] In this respect it is worth noting that it has been almost three years since the Bonn Powers were used to enact a new reform.

20. Overall, the Bonn Powers have been used on nine occasions during the reporting period, overwhelmingly in relation to non-cooperation with the International Criminal Tribunal for the former Yugoslavia and the extension of the State property process.

Police restructuring

21. The two police reform laws needed to clear the way for the Stabilization and Association Agreement were adopted in mid-April: they are the Law on a Directorate for Coordination of Police Bodies and Agencies for Support to Police Structure of Bosnia and Herzegovina, which defines separately the competencies of the Directorate for Coordination, the Forensics Agency, the Agency for Education and Training and the Agency for Police Support, which are new State agencies to provide coordination and support to State-level police bodies. The Law on Independent and Supervisory Bodies of Police Structure of Bosnia and Herzegovina establishes an Independent Board for selecting the heads and deputy heads of State-level police agencies, a Board for Complaints of Police Officials and a Public Complaints Board.

22. The police reform laws set a deadline of August 2008 for appointments to the above-mentioned agencies and boards. The Bosnia and Herzegovina authorities failed to make any appointments before the August deadline, although the Bosnia and Herzegovina Council of Ministers appointed members of the Board for Complaints of Police Officials on 7 October 2008. In relation to the other outstanding appointments, Bosnia and Herzegovina authorities have undertaken initial activities, as described below.

23. In June 2008, the Bosnia and Herzegovina Parliamentary Assembly formed an ad hoc commission to conduct the selection process for members of the Public Complaints Board and the Independent Board in line with the police reform laws. The Office of the High Representative/EU Special Representative, the European Union Police Mission and the United States Government/International Criminal Investigative Training Assistance Programme have been monitoring its work. In September 2008, the ad hoc commission organized the publication of vacancy announcements for these posts and is expected to interview candidates in November.

24. In July 2008, the Ministry of Security of Bosnia and Herzegovina formed a commission to carry out the selection procedure for the directors and deputy

[6] The total number of enacted legislation (i.e., new laws and amendments to laws) in this period was 78, including 23 amendments to laws previously enacted by the High Representative.

[7] The total number of enacted legislation (i.e., new laws and amendments to laws) in this period was 176, including 26 previously enacted by the High Representative.

directors of the new Forensics Agency, the Agency for Education and Training, and the Agency for Police Support. The Office of the High Representative/EU Special Representative, the European Union Police Mission and the United States Government/International Criminal Investigation Training Assistance Programme representatives monitored the work of the commission. At the end of July, the commission completed its mandate and forwarded a ranked list of candidates to the Ministry of Security.

25. The transitional provisions of the Law on the Directorate for Coordination of Police Bodies and Agencies for Support to Police Structure of Bosnia and Herzegovina also required that the Bosnia and Herzegovina authorities harmonize existing legislation with the police reform laws by mid-November 2008. In July 2008, the Ministry of Security of Bosnia and Herzegovina had established a commission for this purpose. In September 2008, the commission forwarded to the Ministry of Security draft amendments to the Law on Ministries and Other Bodies of Administration of Bosnia and Herzegovina, the Law on the State Investigation and Protection Agency, the Law on Border Police of Bosnia and Herzegovina, and the Law on Police Officials of Bosnia and Herzegovina. As of October 2008, the necessary legislation had not yet entered the Bosnia and Herzegovina Council of Ministers or parliamentary procedure.

IV. Entrenching the rule of law

26. The Office of the High Representative oversaw concrete progress by the authorities to deliver the fifth objective for the Office of the High Representative/EU Special Representative transition, "entrenchment of the rule of law". That progress was achieved despite serious attempts by political leaders elsewhere to undermine the independence of the judiciary and the mandate of State law enforcement agencies.

27. Positive outcomes were achieved with the adoption in April 2008 of the Bosnia and Herzegovina Law on Movement and Stay of Aliens and Asylum and the national justice sector reform strategy in June 2008. Development of the war crimes strategy is well under way. A more detailed examination of these ongoing efforts follows.

War crimes prosecution strategy

28. While well under way, the process of drafting a national strategy for addressing war crimes has yet to result in a final draft. Initiated 15 months ago, the process only very recently picked up momentum through the establishment of a strategy working group, established by the Ministry of Justice of Bosnia and Herzegovina and chaired by the chief prosecutor. A deadline of mid-November has been set for delivery of a draft strategy.

29. Unquestionably, there is a need for a strong national strategy for addressing war crimes, given the huge domestic caseload in Bosnia and Herzegovina and the planned closure of the International Criminal Tribunal for the former Yugoslavia by the end of 2010. A clear, well-articulated document will also provide substantial assurance to the Bosnia and Herzegovina public that all serious war crimes-related cases will receive appropriate and timely attention. It will also reassure the international community that the work of the Tribunal will continue under the responsible leadership of Bosnia and Herzegovina following its closure.

30. The Office of the High Representative will continue to support the efforts of Bosnia and Herzegovina in the development of an effective and relevant strategy and, where necessary, provide appropriate mediation to ensure its adoption by the competent authorities.

Passage of the Law on Stay and Movement of Aliens and Asylum

31. The Parliamentary Assembly of Bosnia and Herzegovina adopted the Law on Movement and Stay of Aliens and Asylum in April 2008, which came into force on 14 May 2008. The Office of the High Representative has continued to closely monitor the implementation of the provisions of the Law through participation in working groups, drafting the necessary rulebooks to ensure that the law is fully implemented.

National justice sector reform strategy

32. With strong support from the Peace Implementation Council at its February 2008 session, in close coordination with all key international agencies and donors involved in the Bosnia and Herzegovina justice sector, and in collaboration with the Ministry of Justice of Bosnia and Herzegovina, the Office of the High Representative successfully mediated a compromise that allowed for the adoption of the national justice sector reform strategy in June. The strategy, which addresses the key elements of a functional justice sector, will be reviewed and improved over the next five years. Action plans to implement the five objectives of the strategy are due to be endorsed in December.

33. The final version of the strategy incorporated amended comments from the Ministry of Justice of the Republika Srpska, as well as additional amendments, supported by the Ministry of Justice of Bosnia and Herzegovina. These amendments were deemed necessary to prevent past reforms from being reopened and to promote, to the extent possible, the harmonization of laws between the State of Bosnia and Herzegovina, the entities and Brcko District. A number of essential reforms designed to create an effective and sustainable justice sector were ultimately omitted from the strategy owing to lack of consensus. For this reason, the strategy obliges the signatories to find a solution to these issues before or through the process of constitutional reform. The outstanding issues include the establishment of a Supreme Court of Bosnia and Herzegovina, the development of a single funding mechanism for the judiciary, and the adoption of single criminal and civil substantive and procedural legislation.

Other rule of law issues

34. The Office of the High Representative remains active in supporting the State judicial institutions of Bosnia and Herzegovina and specific projects that are deemed important to reinforce the independence, functionality and professionalism of the judiciary. One of these projects relates to the maintenance of international judges and prosecutors in the Bosnia and Herzegovina State Court and the Bosnia and Herzegovina Prosecutor's Office past the deadline for the completion of the transition period, in December 2009.

35. The recent reopening of a discussion on salaries and compensations to the judiciary, despite the fact that the issue was resolved in December 2005 through a decision of the High Representative, demonstrates the risk of local authorities

rolling back reforms already achieved. The risk of continued political interference in upholding the rule of law was also seen in the recent decision of the government of the Republika Srpska to refuse to cooperate with the State Investigation and Protection Agency and the Bosnia and Herzegovina Prosecutor's Office, by instructing the Republika Srpska Tax Administration to ignore a Bosnia and Herzegovina Prosecutor's order to hand over the tax returns of two private companies and financial reports of several of its ministries. Those actions violated several fundamental State laws and constituted explicit political interference with the independence of the judiciary and in operational policing.

36. The process of transition of the Bosnia and Herzegovina State Court Registry to full domestic ownership has faced recent delays in relation to the common services (maintenance, security, information technology, and telecommunications) owing to a lack of involvement by the competent State institutions, bringing into question the effective support on which the State judiciary will be able to rely in the future.

V. Cooperation with the International Criminal Tribunal for the former Yugoslavia

37. The arrest of Radovan Karadzic was an important event in Bosnia and Herzegovina. Although reactions to the arrest did not materially affect the physical security situation in Bosnia and Herzegovina, statements and actions by both Serb and Bosniak political leaders contributed to the worsening of the political climate. Certain Bosniak politicians asserted that a conviction of Karadzic would provide the legal basis for abolishing the Republika Srpska. In reaction, the Republika Srpska government promised support to Karadzic and his family members involved in his support network. While public discussion about the Karadzic case has waned somewhat, the trial process nevertheless promises to be a psycho-social irritant for as long as it continues. The continued support of the Peace Implementation Council to The Hague and its judicial instruments remains essential to ensure that the Karadzic case is fully resolved.

38. The role of the Bosnia and Herzegovina Intelligence and Security Agency is to be commended for its excellent groundwork, which helped lead to the arrest of Tribunal fugitives Stojan Zuplijanin and Radovan Karadzic. The combined efforts of the Office of the High Representative, the North Atlantic Treaty Organization, EUFOR, the International Criminal Tribunal for the former Yugoslavia, the Bosnia and Herzegovina Intelligence and Security Agency, and the Republika Srpska police, all of which contributed to locating both fugitives, were critically facilitated by the various sanctions of the Office of the High Representative, the EU and the United States, and Bosnia and Herzegovina sanctions against members of the Persons Indicted For War Crimes support network.

39. The Tribunal fugitives Goran Hadzic and Ratko Mladic remain a priority for the Office of the High Representative, which will continue to play a coordinating role in Bosnia and Herzegovina with all agencies concerned with Tribunal initiatives.

40. Following the transfer of Radovan Karadzic to The Hague on 30 July, the High Representative repealed his orders to seize travel documents from family members

of Radovan Karadzic. That enabled Bosnia and Herzegovina authorities to return travel documents to Radovan Karadzic's wife, Ljiljana Zelen-Karadzic, daughter, Sonja Karadzic-Jovicevic, son, Aleksandar Karadzic, and son-in-law, Branislav Jovicevic. The Republika Srpska Centre for Public Safety East Sarajevo officially returned the documents to the Karadzic family on 31 July.

41. On 3 July, the International Criminal Tribunal for the former Yugoslavia acquitted Naser Oric, whose first instance sentence of two and a half years was overturned by the Appeal Chamber. Bosnian Serb and Serbian politicians condemned the Court decision, which nonetheless stated that war crimes against Serbs did undoubtedly occur in the area in which Oric's troops operated.[8] The lenient sentence of the Tribunal against former Army Commander of the Republic of Bosnia and Herzegovina Rasim Delic for failure to prevent war crimes of the Mujahedeen Brigade and his acquittal on three other counts was criticized by both Croat and Serb leaders.

42. In October, the State Prosecutor's Office ordered the arrest of four persons in the Prijedor area, who were suspected of participating in the murder of over 200 Bosniaks and Croats at Koricanske Stijene at Mount Vlasic in the summer of 1992.

43. At the urging of the Office of the High Representative, Federation Prime Minister Nedzad Brankovic set up an inter-agency working group to follow up on outstanding Human Rights Chamber and Constitutional Court decisions related to Serbs who went missing in Sarajevo. The Office of the High Representative will also continue to work with local authorities to locate the remains of Colonel Avdo Palic. Colonel Palic's widow, Esma Palic, is awaiting the outcome of her lawsuit filed in the European Court of Human Rights. The lawsuit against Bosnia and Herzegovina for the non-implementation of the Human Rights Chamber decision obliged the Republika Srpska to locate the remains and establish the circumstances around the disappearance of her husband.

44. It is also important to note the escape of Tribunal transfer case and war crimes convict Radovan Stankovic from the Republika Srpska prison in Foca in May 2007. The Republika Srpska has returned to duty the prison guards and prison director working at the time of the escape, and appears to have taken no serious efforts to apprehend this fugitive, who has sent threatening letters to Bosnia and Herzegovina officials from Serbia. The Republika Srpska suspended certain persons only after the State Prosecutor's Office launched its own investigation.

45. A similar problem has been identified in the Federation's Zenica prison, where Abdulhadim Maktouf, the first person convicted by the Bosnia and Herzegovina War Crimes Chamber, has been repeatedly granted furloughs from prison in violation of State law. Despite repeated inquiries and demands for remedial action by the Office of the High Representative, to date Federation officials have failed to take any meaningful action, and the case is now being investigated by the Federation Prosecutor.

46. The Stankovic and Maktouf incidents reinforce the continued need for the construction of a State prison staffed with professionally trained personnel. This project is currently under discussion between international donors and the Ministry

[8] As an aside, Federation police arrested Naser Oric in October on extortion charges.

of Justice. The Ministry has shown leadership on the issue, since assuming control of the project from the Bosnia and Herzegovina State Court Registry.

47. The mandates of the international judges and prosecutors at the War Crimes Chamber of the Court of Bosnia and Herzegovina are scheduled to expire and the positions taken over by domestic judges and prosecutors by the end of 2009. Bosnia and Herzegovina judicial institutions have approached the Office of the High Representative with the request to support the extension of the international presence beyond 2009. The International Criminal Tribunal for the Former Yugoslavia President Fausto Pocar and key donor organizations fully support this request.

VI. Reforming the economy

48. Economic trends in the first half of 2008 have indicated challenges to economic growth. Due to growing food and energy prices, inflation reached 9.9 per cent in July, the highest rate in the past 10 years. The trade deficit of Bosnia and Herzegovina in the first eight months of the present year was 3.2 billion euros, with exports increasing by 17 per cent and imports increasing by 21.8 per cent on an annual basis. The average monthly net wage in Bosnia and Herzegovina also increased by 19 per cent, amounting to 376 euros. There was better news on the employment front, with the unemployment rate down by nearly 6 per cent compared to last year.[9] It is now estimated at 23.4 per cent.

49. The reporting period has witnessed a number of developments with regard to the economic reform agenda. On the fiscal side, the establishment of the Bosnia and Herzegovina Fiscal Council, aimed at facilitating better coordination between the State and the entities on fiscal policies to ensure overall fiscal sustainability and macroeconomic stability, took a major step forward when the requisite law was adopted by the Bosnia and Herzegovina Parliamentary Assembly on 23 July. The Fiscal Council held its first meeting on 11 September and, at its session on 28 October, adopted its rules of procedure.

50. Elsewhere, the Governing Board of the Indirect Taxation Authority met on 24 June and agreed on a permanent methodology for allocation of indirect taxes and the appointment of the Bosnia and Herzegovina Minister of Finance and Treasury as the new Indirect Taxation Authority Governing Board Chairman as of 1 July. The Governing Board has held three meetings since then, but it has failed to tackle its agenda because of the persistent non-attendance of the Minister of Finance of the Republika Srpska.

51. Budget preparations for 2009 are under way at all levels of government. Unlike the entity budgets, the draft State budget, which is currently awaiting consideration by the Bosnia and Herzegovina Council of Ministers, is likely to encounter difficulties as the Republika Srpska has already announced its opposition to the proposed budget increase of 28 per cent compared to the 2008 budget. Serious efforts will be required to ensure that a satisfactory State budget sufficient to ensure the unimpeded functioning of the State institutions is adopted on time.

[9] See 2008 Labour Force Survey, Agency for Statistics of Bosnia and Herzegovina.

52. The Federation has been faced with serious challenges to its financial stability in the reporting period. Several factors have contributed to this, primarily unrealistic planning for 2008 and a significant increase in allocations for social support and the veteran population. The Federation will need to amend social and veterans' legislation, introducing a proper revision of its beneficiaries and establishing a single database of beneficiaries to prevent fraud, if it is to tackle the issue. Expenditures will also need to be reduced. The Federation War Veterans Ministry has initiated a new review of beneficiaries of war veterans and disability benefits as the first phase of its overall review. This should eventually result in a decrease in budgetary allocations to veterans.

53. A major step towards creating a single pharmaceutical market in Bosnia and Herzegovina was taken with the adoption of the Bosnia and Herzegovina Law on Pharmaceuticals and Medical Devices in June. On a far less positive note, the energy sector faced a serious challenge when the Republika Srpska government adopted a conclusion on 11 September announcing its unilateral withdrawal from TRANSCO. TRANSCO is the cornerstone of the Bosnia and Herzegovina energy sector reform, ensuring a continuous supply of electricity at defined quality standards and facilitating the creation of an electric energy market in Bosnia and Herzegovina and its integration into regional energy markets and development activities. Its existence is foreseen and required by the Bosnia and Herzegovina legislation, Peace Implementation Council declarations and European integration processes. Following a strong and united reaction from the international community, the Republika Srpska government replaced its original conclusion with a new text that did not go beyond legislation in force. The Office of the High Representative, the European Commission and the United States continue to work towards an agreement that will be satisfactory to both entities.

54. In addition to attempting to undermine TRANSCO, the Republika Srpska also attempted to amend the Bosnia and Herzegovina Central Bank Law. The amendment sought to determine the Republika Srpska share in the founding capital of the Central Bank and the method of distribution of its profit. The proposal was in violation of the Central Bank's independence as stipulated by the Constitution of Bosnia and Herzegovina and, as such, it was rejected on the grounds of lacking a constitutional basis.

55. With regard to other single economic space reforms, no progress was made on any issue requiring a transfer of competence, owing to ongoing opposition by the Republika Srpska to any transfers of competence to the Bosnia and Herzegovina institutions. These reforms include the establishment of a State-level banking supervision system. Although the impact of the global credit crisis on Bosnia and Herzegovina is yet to be seen, the Central Bank has taken a proactive approach, first providing 200 million euros in cash and then reducing the required reserve rate from 18 per cent to 14 per cent to provide additional liquidity to the banking sector. Additionally, on 23 October, the Bosnia and Herzegovina Council of Ministers adopted and forwarded amendments to the Law on Deposit Insurance in Banks of Bosnia and Herzegovina to the Bosnia and Herzegovina Parliamentary Assembly for adoption under urgent procedure. The amendment would raise the deposit insurance to 10,000 euros for physical persons.

VII. Public administration reform

56. The public administration reform continues to be a very slow and uneven process. The Federation and the Republika Srpska governments have proposed amendments to legislation that would change the status of civil servants and run contrary to the public administration reform strategy in Bosnia and Herzegovina, which was adopted by all levels of government in 2006.[10] In effect, these proposed changes would make civil servants political appointees and open the door to nepotism and political influence throughout the civil service administration in both entities. The Office of the High Representative, together with the European Commission, has reacted to these draft laws.

VIII. Defence reform

57. Little progress was made towards reaching an agreement on immovable defence property that will continue to serve defence purposes. In order to invigorate the process, in July, NATO Headquarters Sarajevo developed a "concept paper" outlining the key issues that should be regulated by a transfer agreement on immovable property. In September initial steps were undertaken to make a large survey of representative defence sites across Bosnia and Herzegovina. The survey provided sufficient information to begin the drafting process. Owing to local inactivity, NATO Headquarters Sarajevo began to develop its own draft transfer agreement as a catalyst for the Bosnia and Herzegovina Ministry of Defence to undertake its responsibilities.

58. The intensified dialogue programme was offered by NATO in large part because of progress made earlier in the year on the transfer of movable defence property to the State. Following the NATO summit in April, Bosnia and Herzegovina submitted an initial discussion paper as a first step in the intensified dialogue programme in July. NATO considered the paper at the first intensified dialogue meeting in early September.

59. Overall, Bosnia and Herzegovina worked hard to achieve progress within the NATO Partnership for Peace Programme. However, since it became necessary to develop and implement detailed action plans on a multiagency basis, the lack of staff capacity in Bosnia and Herzegovina ministries has begun to impose friction on Bosnia and Herzegovina's hitherto rapid progress through the various stages of the Partnership for Peace Programme.

IX. Intelligence reform

60. The functioning of the Bosnia and Herzegovina Intelligence and Security Agency continues to be consolidated through various donor capacity/institution building projects. Operational work in the field of counter-intelligence was further developed and the results of a policy of continuous cooperation with regional partners and police bore fruit with high profile arrests in the fields of counter-terrorism, war crimes and organized crime. Increased cooperation between key State

[10] Letter to the Federation authorities on 25 April and to the Republika Srpska authorities on 6 October.

actors is being facilitated through their efforts to establish a Bosnia and Herzegovina secret data protection system in line with Euro-Atlantic standards.

X. European Union military mission in Bosnia and Herzegovina

61. EUFOR continued to provide a military force of some 2,200 personnel and retained the capability to bring in over-the-horizon reserves. The EUFOR headquarters and peace enforcement capability remained based in the Sarajevo area, but liaison and observation teams (known on the ground as LOT teams) were present throughout the country. The presence of EUFOR on the ground provided the crucial reassurance that the population in general feel is necessary. Given the difficult political environment, it is important that EUFOR retain the capacity to deploy troops throughout Bosnia and Herzegovina at short notice. EUFOR continued to work closely with the Armed Forces of Bosnia and Herzegovina, especially in terms of handing over the additional military functions to the Bosnia and Herzegovina authorities.

62. EUFOR continues to play a key role in contributing to a safe and secure environment in Bosnia and Herzegovina and in the Office of the High Representative and other international organizations fulfilling their respective mandates. As such, EUFOR continues to serve as an important factor of stability in Bosnia and Herzegovina at a time when the political situation is far from stable. For this reason, an extension of the mandate of EUFOR in its current configuration is important.

XI. Return of refugees and displaced persons

63. According to the latest figures from the Bosnia and Herzegovina Ministry for Refugees and Human Rights, there are 120,000 displaced persons in Bosnia and Herzegovina who have expressed their wish to return to their pre-war homes. Many practical barriers to return remain, including the absence of employment opportunities, inadequate funds for rebuilding, and difficulties in accessing health and social services in their former places of residence.

64. The Bosnia and Herzegovina Ministry for Refugees and Human Rights has completed its revision of the current strategy for the implementation of annex 7 of the Dayton Peace Agreement. Annex 7 guarantees refugees and displaced persons the right to return home.

65. The strategy, forwarded to the Council of Ministers for adoption, emphasizes the need to sustain the return of those people who have already returned. The Office of the United Nations High Commissioner for Refugees (UNHCR) has been actively involved in the drafting of a new strategy, together with the Office of the High Representative and other international stakeholders. UNHCR will remain the international lead agency in this field. The Ministry has led this exercise in a commendable way, ensuring the participation of all domestic and international stakeholders, and equally important, an active participation of the relevant civil society actors.

XII. Mostar

66. The recent local elections in Mostar passed without incident. However, the election results were surprising, in which the party Narodna Stranka — Radom za Boljitak (Peoples' Party — Working for Prosperity) won seven seats in the city elections, mainly at the expense of the Croat-prefix parties (HDZ Bosnia and Herzegovina, HDZ 1990). The emergence of Radom za Boljitak — a party dominated by Croats, but with cross-ethnic membership, and which does not identify itself as an "ethnicity based" party — along with significant gains by the Bosniak-dominated SDA could lead to the election in the City Council of a Bosniak as the mayor of Mostar. The position is currently held by a Croat from HDZ Bosnia and Herzegovina.

67. Successful implementation of the Mostar Statute has thus far hinged on a delicate balance of power between the main national parties, SDA and HDZ Bosnia and Herzegovina. With the Croat national parties diminished in the City Council (although HDZ Bosnia and Herzegovina maintains considerable political and economic influence in the Croat-majority areas of the city), the balance has shifted, creating a volatile political situation in Mostar, at least in the short term.

68. Such unpredictable circumstances may further delay the adoption of the Mostar Statute by the City Council, which is a key goal in the unification process. The Office of the High Representative remains the primary guarantor of the Statute until its adoption.

69. Meanwhile, the government of Herzegovina-Neretva Canton, based in Mostar, remained deadlocked through most of the summer over two issues: the financing of the long-suffering Croat-dominated Herzegovina Radio-Television (which the city of Mostar wrote off its own books in 2007), and the appointment of a Bosniak candidate as Police Commissioner. A Police Commissioner was appointed immediately after the local elections on 9 October, although questions still exist about whether he meets all legally defined requirements. On 29 October, in a surprise development, the Federation government passed a decision allocating 150,000 euros (75,000 euros each) to Hercegovacka Radio-Television and Radio Herceg Bosna.

XIII. Brcko District

70. Politics in Brcko District remained relatively stable over the reporting period. While developments within the District, which fell short of implementation of the 2008 elections results, are nearing the state where closure of Supervision is possible, a key issue remains unresolved. The provision of guarantees for the status of the District after Supervision, through modest additions to the Constitution of Bosnia and Herzegovina reached a stalemate when the Party for Bosnia and Herzegovina (SBiH), SNSD, Party of Democratic Progress (PDP) and HDZ 1990 each decided to support a law to the exclusion of the constitutional additions required by the Supervisor.

Constitutional amendments and law on Brcko District

71. In late 2007, the Brcko Supervisor consulted with the President of the International Criminal Tribunal for the Former Yugoslavia and concluded that a

package of modest and limited constitutional amendments and a minimalistic law would be the best way forward, by which the Constitutional Court of Bosnia and Herzegovina could replace the Arbitral Tribunal for disputes between the District and the entities, and thus create the conditions for ending Supervision. Initial consultations showed support in principle from a sufficient number of governing and opposition parties in the Bosnia and Herzegovina Parliamentary Assembly to assure comfortable passage of the additions.

72. By June 2008 draft amendments had been prepared and all key party leaders appeared to be in agreement. SBiH President Silajdzic, however, disavowed his earlier support, stating that he would accept only full constitutional reform, and that "only a law" was needed. In July, when invited to a meeting to sign an agreement on the text of the two small Constitution additions, SNSD asked that the process be postponed until after the October elections. Since that time, SNSD has adopted an official position that "only a law" is needed and that it will not support amendments. Further, SNSD also stated that Brcko needs to "return" to the Republika Srpska, a clear violation of annex 2 of the Dayton Peace Agreement, which stipulated that the Tribunal's decision would be final and binding on all parties. Since the shift in the SNSD position, both HDZ 1990 and PDP, led by Mladen Ivanic, have also said that they see no need for constitutional amendments.

73. The closure of the Supervisory Regime goes hand-in-hand with the closure of the Tribunal. As such, the determination that the District works effectively and apparently permanently requires the Supervisor to ensure that the District has ways to protect its rights under the Tribunal's awards. The disputes over the last few years indicate that there is no such remedy available to the District except the Tribunal itself. This is not a sustainable arrangement. Only a constitutional amendment could give the District access to the domestic dispute resolution forum: the Constitutional Court of Bosnia and Herzegovina. Without it, the Supervisor will not be in a position to notify that the conditions for ending Supervision have been created.

74. The Supervisor has attempted to re-engage key parties on returning to the agreement reached earlier this year. However, SNSD maintains that it will not discuss the matter any more, despite its stated desire to be part of the government in Brcko District, which it officially does not recognize.

Brcko District institutions

75. With the Supervisory Order of 18 July, the Supervisor regulated finally the status of the Brcko District Election Commission, which the District Assembly failed to do for a year and a half. Even then, the Assembly failed to select and appoint two new members of the Commission following its extension under the law to seven members. On 18 September, the Supervisor issued a Supervisory Order appointing the seventh member of the Commission and fined councillors of the Assembly for their misconduct. By way of the Order, the Supervisor enabled the Commission to properly prepare and conduct the elections in full composition.

76. Much of the future functioning of District institutions will depend on the new bodies of governance emerging from the October elections. Essential for the Supervisor will be that the new bodies of Government are expressly committed to the Dayton Peace Agreement, the awards of the Arbitral Tribunal and the status of the District as a democratic, multi-ethnic unit of self-governance under the

sovereignty of the State and committed to protecting the status of the District after Supervision ends.

XIV. Bosnia and Herzegovina and the region

77. Compared to the previous reporting period, this one has been a relatively quiet time concerning regional issues. Unlike the Government of Montenegro and the Government of Macedonia,[11] which recognized Kosovo's independence in October, Bosnia and Herzegovina has continued to withhold its recognition.

78. There has been no progress during the period in sorting out border-demarcation issues with Serbia or Croatia, which have not yet signed border treaties with Bosnia and Herzegovina. On a positive note, a dispute in June with Serbia over its plans to seize and sell real estate and plants owned by Bosnia and Herzegovina companies in Serbia was resolved when the new Serbian government revoked the previous government's decision. Another positive development was the announcement of the Croatian Government that, following the escape of a convicted fraudster from Croatia to Bosnia and Herzegovina, it might be ready to amend its Constitution to permit the extradition of its citizens to foreign countries. Bosnia and Herzegovina would only have to change a law to establish reciprocity in such matters. Such a step would be a welcome development, and the parties are encouraged to address it. The reported detention and pursuit in Bosnia and Herzegovina of suspects connected to the recent murder of two Croatian journalists in Zagreb may also contribute to this positive change.

79. A lesser stir followed after Serbia announced that the projected Southern Stream natural gas pipeline could also serve the Republika Srpska. There are reportedly also plans to integrate the Republika Srpska and Serbian electricity industries.

XV. European Union Police Mission

80. As foreseen in its mandate, the strategic priorities of the European Union Police Mission remain the fight against organized crime and corruption, the attainment of police reform and the improvement of police accountability. As for the first priority, the Mission took the lead in coordinating the policing aspects of international efforts and ensured, in particular, closely targeted EU attention to major crime cases across Bosnia and Herzegovina through the EU Coordination Board for support in the fight against organized crime. The Mission advised on key operations and on the development of technical capabilities, including special investigative measures. Essential technical capabilities provided through the Community Assistance for Reconstruction, Development and Stabilization Programme were made operational during the reporting period. Through its Criminal Justice Unit, and in close coordination with my office, the Mission

[11] Some members of the Peace Implementation Council Steering Board recognize the former Yugoslav Republic of Macedonia by its constitutional name, and others do not. The Office of the High Representative takes no position on the issue and refers only to the Government of Macedonia, a body with which even States that do not recognize it by its constitutional name have signed agreements.

promoted better relations between police and prosecutors and closely cooperated with the High Judicial and Prosecutorial Council.

81. In the area of police reform, the European Union Police Mission, together with the Office of the High Representative and the European Union Special Representative, has provided advice to the Bosnia and Herzegovina authorities on the implementation of the two police reform laws, adopted by the Parliamentary Assembly of Bosnia and Herzegovina in April 2008.

82. The European Union Police Mission also monitored police accountability and supported the development of good practices. The commemoration ceremonies in Srebrenica and eastern Bosnia and the aftermath of the arrest of Radovan Karadzic provided it with an opportunity to evaluate the handling of the police of highly sensitive public events. In both cases the Mission judged the performance of the local police as positive. It likewise supported the strengthening of the main State-level law enforcement agencies, the Border Police and the State Investigation and Protection Agency, in particular through co-location.

83. The European Union Police Mission is expected to maintain its current strength and activities for the remainder of the Council Joint Action on the Mission, which expires on 31 December 2009. A reorientation of the Mission may be required following a decision by the Peace Implementation Council on the Office of the High Representative/European Union Special Representative transition. The Head of Mission Brigadier General Vincenzo Coppola (Italy) ended his tour of duty on 31 October. The Council appointed Police Commissioner Stefan Feller (Germany) on 24 October 2008, effective as of 1 November 2008. I continue to work in close cooperation with the European Union Police Mission Head of Mission, who provides policing advice to my office, whereas I provide local political guidance to the Mission.

XVI. Non-certification of police officers

84. During the reporting period, the Bosnia and Herzegovina authorities continued to implement the provisions of the letter of April 2007 from the President of the Security Council to the Permanent Representative of Bosnia and Herzegovina to the United Nations on former police officers denied certification by the International Police Task Force. By the end of October 2008, model amendments prepared by the Office of the High Representative/European Union Special Representative and European Union Police Mission to bring domestic legislation in line with the letter had been adopted in all jurisdictions except the Republika Srpska.

85. In June 2008, associations of police officers denied certification by the International Police Task Force staged protests in front of the Office of the High Representative/European Union Special Representative building in Sarajevo. The associations later ended the protests after receiving assurances from Federation authorities related to retirement and social entitlements.

XVII. Media development

86. The media landscape continues to be fragmented with allegations of both harassment and direct physical and verbal assaults on journalists by elected and

appointed officials and interference with independent regulators. This is reflected in the drop in rank of Bosnia and Herzegovina from 19 to 36 on the press freedom index in the most recent world report on press freedom of Reporters sans frontières.

87. On a more positive note, a long-awaited breakthrough on the reform of the public broadcasting system was achieved with the adoption on 26 July of the Federation's public broadcasting framework law. It followed a ruling on 10 June by the Federation Constitutional Court that the law did not violate the vital national interest of the Croat people. While a welcome development, which finally cleared the way for the establishment of the country's public broadcasting corporation, the law differs in a number of important areas from the other Public Broadcasting Service laws that are already in place. For example, the Federation Parliament has taken an excessive role in the appointment procedure of the Board of Governors, with no other body except the Parliament itself advertising, selecting and appointing the Federation's members of the Board of Governors. The appointment of the Board is expected to be finalized shortly, after which the three public broadcasters are obliged to jointly streamline their activities by establishing the Corporation that will manage property, technical resources, programme acquisitions, etc., on their behalf. Croat political representatives continue to press for a channel that would broadcast exclusively in the Croat language, with the Croat caucus in the Bosnia and Herzegovina House of Peoples succeeding in having an initiative adopted that tasks the Council of Ministers to look into the matter.

88. The independence and functioning of the Communications Regulatory Agency has continued to be challenged. On 15 October, the Republika Srpska National Assembly adopted a declaration claiming that the Communications Regulatory Agency is for the second year in a row being run by an illegal body. The appointment of a new director of the Communications Regulatory Agency continues to be blocked by the ruling coalition, which, through its representatives in the Council of Ministers, continues to fail to meet its obligations to appoint a new director. No resolution of the matter appears to be in sight, thereby encouraging irresponsible political actors to challenge the legality of the decisions of the Agency.

XVIII. European Union Special Representative

89. In line with the mandate of the European Union Special Representative (Council Joint Action 2007/427/CFSP), my Office continued to promote the priorities listed in the European Partnership document of 2008. In addition to this, the European Union Special Representative has continued to coordinate and ensure the coherence of the EU presence in Bosnia and Herzegovina, in particular with regard to the European Union Police Mission and EUFOR.

90. In line with the EU enlargement strategy of 2007-2008, calling for better communication by the EU, the European Union Special Representative placed a particular emphasis on promoting a public campaign aimed to stimulate domestic support for EU integration. This has been done in close coordination with the European Commission and other EU actors on the ground in Bosnia and Herzegovina.

91. This initiative plays an important role in establishing the primacy of the European agenda and stimulating a dynamic reform process through which citizens in Bosnia and Herzegovina will actively demand their political representatives to

implement reforms required to improve their daily lives and to integrate the country into the EU. During the spring, the European Union Special Representative, together with a number of Bosnia and Herzegovina NGOs, visited 17 towns across Bosnia and Herzegovina and spoke directly with over 3,000 citizens about the EU integration process. These public discussions culminated in June with a nationwide televised debate.

92. The EU campaign is being supported by an interactive website (www.reci.ba), which has been used to develop the discussion on EU integration with citizens of Bosnia and Herzegovina. So far the website has received over 52,000 visits and 5,000 comments.

XIX. Future of the Office of the High Representative

93. The Peace Implementation Council Steering Board met on 24 and 25 June to review the situation in Bosnia and Herzegovina. The Steering Board recognized the progress that had been made by the authorities in Bosnia and Herzegovina to deliver the objectives and conditions for the Office of the High Representative/European Union Special Representative transition.[12] However, it also made clear that it had serious concerns about the prevailing political situation in the country, including the challenges to the country's sovereignty, territorial integrity and constitutional order, as well as to its State-level institutions.

94. The Peace Implementation Council Steering Board is scheduled to hold its next meeting in Brussels on 19 and 20 November, in order to review both the situation in Bosnia and Herzegovina and progress made by the authorities in Bosnia and Herzegovina to deliver the five objectives and two conditions for the Office of the High Representative/European Union Special Representative transition. At the time of writing, and as covered in the detail in the report, it is clear that these requirements will not be met by then. As a result, it is unlikely that the Peace Implementation Council Steering Board will be in a position to take a decision on the closure of the Office of the High Representative before its next meeting, scheduled for March 2009.

XX. Reporting schedule

95. In keeping with the proposals of my predecessor to submit regular reports for onward transmission to the Security Council, as required by Security Council resolution 1031 (1995), I herewith present my third regular report. Should the Secretary-General or any Security Council member require information at any other time, I should be pleased to provide an additional written update.

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[12] See www.ohr.int/pic/default.asp?contentid=41874.

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Letter dated 13 November 2008 from the Secretary-General to the President of the Security Council

Pursuant to Security Council resolution 1031 (1995), I have the honour to convey the attached letter dated 10 November 2008, which I received from the High Representative for Bosnia and Herzegovina (see annex), transmitting the thirty-fourth report on the implementation of the Peace Agreement, covering the period from 1 April to 31 October 2008.

I should be grateful if you would bring the present letter and its annex to the attention of the members of the Security Council.

(*Signed*) **Ban** Ki-moon

* Reissued for technical reasons.

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Annex

Letter dated 10 November 2008 from the High Representative for Bosnia and Herzegovina and European Union Special Representative to the Secretary-General

Pursuant to Security Council resolution 1031 (1995), in which the Council requested the Secretary-General to submit to it reports from the High Representative in accordance with annex 10 of the General Framework Agreement for Peace in Bosnia and Herzegovina and the Conclusions of the London Peace Implementation Conference of 8 and 9 December 1995, I herewith present to you the thirty-fourth report (see enclosure). I would ask for this report to be distributed to the members of the Security Council for their consideration.

This is my third report to the Secretary-General since assuming the office of the High Representative for Bosnia and Herzegovina (and European Union Special Representative) on 2 July 2007. The present report covers the period from 1 April to 31 October 2008.

Should you or any Council member require any information beyond what is offered in the attached report or have any questions regarding its contents, I should be pleased to provide further information.

(*Signed*) Miroslav **Lajčák**
High Representative and European Union Special Representative
in Bosnia and Herzegovina

Enclosure

Thirty-fourth report of the High Representative for Bosnia and Herzegovina

1 April-31 October 2008

Summary

This report covers the period from 1 April to 31 October 2008. During the last seven months Bosnia and Herzegovina has taken an important step forward in its efforts to move towards the European Union (EU) when it adopted police reform legislation in mid-April. The adoption of these laws enabled the country to sign on 16 June a Stabilization and Association Agreement (and an accompanying Interim Agreement) with the EU, the first contractual relationship with the EU necessary to achieve candidate status and possible accession to the Union.

Regrettably, this important step has not led to a change in the way politics are conducted in Bosnia and Herzegovina. Instead, nationalist, anti-Dayton rhetoric challenging the sovereignty, territorial integrity and constitutional order of Bosnia and Herzegovina, as well as the authority of the High Representative and the Steering Board of the Peace Implementation Council, have continued to dominate politics in Bosnia and Herzegovina. Of particular note are the ongoing attacks by the Republika Srpska government against State institutions, competencies and laws. Together with provocative statements from the Bosniak side questioning the right of the Republika Srpska to exist, this has served to further undermine inter-ethnic trust, creating a cycle where it is more and more difficult for the country's political leaders to meet each other half way so that they may make the decisions needed to take the country forward.

After making some welcome initial progress between April and June towards delivering on the five objectives and two conditions[1] set by the Steering Board of the Peace Implementation Council, particularly objectives 2, 4 and 5 and the first condition, in February 2008 for the transition of the Office of the High Representative to a stand-alone EU Special Representative, the authorities in Bosnia and Herzegovina have hardened their positions since July on the two substantial and crucial objectives regarding State property and completion of the Brcko District Final Award.

The Steering Board declaration of 25 June 2008 may be found on the website of the Office of the High Representative (http://www.ohr.int/pic/default.asp?content_id=41874). Four months after its adoption, given the continued attacks on Bosnia and Herzegovina and its institutions, it continues to reflect the justified concern of the international community about the overall political situation in Bosnia and Herzegovina.

[1] Most notably on Objective 2 — Movable Defence Property, Objective 4 — Fiscal Sustainability and Objective 5 — Entrenching the Rule of Law, and the First Condition (met when the Stabilization and Association Agreement was signed on 16 June).

The European Union military mission in Bosnia and Herzegovina (EUFOR) continues to contribute to a safe and secure environment in Bosnia and Herzegovina. EUFOR is as an important factor of stability in Bosnia and Herzegovina at a time when the political situation is far from stable. For these reasons, the mandate of EUFOR should be extended. I have also recommended its extension to the EU and its member States.

I. Introduction

1. This is my third report to the Secretary-General since assuming the Office of High Representative for Bosnia and Herzegovina and EU Special Representative on 1 July 2007. In keeping with past practice, the present report assesses progress made towards attaining the goals outlined in previous reports, reviews developments during the reporting period, and provides my assessment of mandate implementation in the most important areas. Following the decision of the Steering Board of the Peace Implementation Council in February 2008 to specify five objectives and two conditions that must be achieved or met by the authorities of Bosnia and Herzegovina before there can be a transition from the Office of the High Representative to an office of the EU Special Representative, the focus of my efforts has been on facilitating progress on this front, although much of my time has been focused on addressing negative developments, in particular anti-Dayton rhetoric challenging the sovereignty, territorial integrity, and constitutional order of the country as well as related attacks on Bosnia and Herzegovina State institutions.

II. Political update

General political environment

2. In April, two police reform laws were adopted by the Parliamentary Assembly of Bosnia and Herzegovina. These laws came into force on 14 May. This long-awaited progress opened the way for Bosnia and Herzegovina to sign a Stabilization and Association Agreement and Stabilization and Association Agreement Interim Agreement with the EU on 16 June. The Interim Agreement entered into force on 1 July 2008. The Bosnia and Herzegovina Parliamentary Assembly ratified the Stabilization and Association Agreement in October, but it still awaits a ratifying signature by the presidency of Bosnia and Herzegovina.

3. Despite the negative political atmosphere, an agreement was reached in May on voter rights for voters from Srebrenica. Amendments to the Election Law of Bosnia and Herzegovina were adopted that month, which allowed all who were residents in Srebrenica in 1991 to have the option of casting votes for that municipality (irrespective of their displaced person status) in the 2008 municipal elections only.

4. Regrettably, these positive developments were short-lived. Nationalist rhetoric continued to dominate politics at all levels throughout the reporting period. The municipal election campaign provided for a further hardening of positions on all sides, with the Prime Minister of the Republika Srpska, Milorad Dodik, and the then Chair of the Bosnia and Herzegovina Presidency, Haris Silajdzic, continuing to undermine the political situation through their public statements after the elections. The increase of Republika Srpska political and legal attacks on the State and its institutions in the field of transfer of competencies or in the form of legislative initiatives has also been a major concern.

5. In July, the nationalist rhetoric was met with a response from Federation-based parties when a senior member of the Party of Democratic Action (SDA), Bakir Izetbegović, stated that it would be much better for the international community to

react to Dodik's anti-Daytonism, "to sanction such attempts [than for] Bosniaks to have to fight for Bosnia and Herzegovina in our own ways".[2]

6. In this political situation, the six parties in the coalition at the State level met on 23 August. Not surprisingly, they were unable to make any headway on the reform agenda. Given the prevailing political situation, the fact that the leaders had avoided a confrontation only a few months before the election was seen as a positive sign. The single new issue on their agenda was the census, upon which the Republika Srpska has been insisting that ethnic and religious affiliation be included even though it is not an EU requirement to include such elements. The issue also fell victim to rhetoric, with the Republika Srpska threatening to hold its own "census" if Bosnia and Herzegovina authorities fail to do so. A Serbian Democratic Party (SDS) initiative on an ethnically based census was defeated in the House of Peoples of Bosnia and Herzegovina on 27 October.

7. On 20 September, the SDA Main Board adopted a declaration that contains a call for a return to the Constitution of the Republic of Bosnia and Herzegovina, if the Office of the High Representative is closed before the full implementation of the Dayton Peace Agreement. The SDA assertion is based upon a decision of the Republic of Bosnia and Herzegovina Parliamentary Assembly of 12 December 1995 accepting the new Dayton constitution with that proviso, prior to signing the Dayton Peace Agreement in Paris on 14 December 1995. Such a call constitutes a threat of unilateral change to the Constitution of Bosnia and Herzegovina, which is contained in annex 4 of the Dayton Peace Agreement, and is therefore unacceptable.

8. Also in September, President Silajdzic embarked on a round of unilateral addresses, giving speeches to the United Nations General Assembly and to the Parliamentary Assembly of the Council of Europe, which had not been cleared with the other two members of the Bosnia and Herzegovina Presidency. Silajdzic's speeches caused considerable controversy in the Republika Srpska because of their emphasis on the genocide committed in Srebrenica in 1995. In response to the speeches, the Republika Srpska organized a special session of its National Assembly.

9. Croat political players were not immune from commenting on the country's constitutional order, although they did so mostly in the context of presumed constitutional reform discussions. In July, the leaders of both the Croatian Democratic Union of Bosnia and Herzegovina (HDZ BiH) and HDZ 1990, Dragan Covic and Bozo Ljubic, respectively, made the almost identical comment that a (presumably Croat-dominated) third entity was an option. They stated, however, that that could only be the case as a result of agreement between all three constituent peoples.

10. Republika Srpska officials also took noteworthy positions on the status of the Republika Srpska and the High Representative. Although the Republika Srpska Prime Minister, in an interview in late June, was very careful not to answer directly a question on Republika Srpska independence, because of a stated fear of removal, he did say that the Republika Srpska "would remain [a] sovereign State".[3]

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[2] *Dnevni Avaz*, 14 July 2008.

[3] See Slovak newspaper *Hospodarske Noviny*, 30 June 2008.

11. On a more positive note, the 5 October municipal and Brcko District elections took place without major incidents. Overall, the election outcome did not hold any major surprises, although it is notable that the parties whose leaders had been most active against constitutional reform measures in April 2006 lost the most votes compared to their results in 2006 (general elections), while nationalist parties that espoused anti-Dayton rhetoric, while remaining central, did lose absolute numbers of voters.

12. On 15 October, the Republika Srpska National Assembly held a special session in response to President Silajdzic's speeches to the United Nations and the Council of Europe. At that session, it reaffirmed its conclusions of 22 February, wherein it considered that it has the right to a referendum on Republika Srpska independence, and adopted the "information" document of the President of the Republika Srpska that attributes "sovereignty" to the Republika Srpska and the "right" to hold a referendum on independence.

13. The characterization of the Republika Srpska as a State is anti-Dayton, not least because it runs counter to the ruling of the Constitutional Court of Bosnia and Herzegovina, which states that the Constitution of Bosnia and Herzegovina does not afford the entities sovereignty or indeed the right to "self-organization" on the basis of territorial separation. The latter characterization of Bosnia and Herzegovina as a common or joint State has not, surprisingly, raised concerns about the fact that the Republika Srpska believes it has the right to withdraw from Bosnia and Herzegovina and could continue to exist outside of Bosnia and Herzegovina. I clearly warned, in advance, against the anti-Dayton nature of the claim as well as any competence for this body to formulate such a claim.

14. While there has been negative rhetoric from all quarters as outlined above, Republika Srpska representatives have directly challenged the State through legislative initiatives. A number of concrete examples exist in the field of transfer of competencies, including the Missing Persons Institute, the Electricity Transmission Company (TRANSCO) and the Independent System Operator in Bosnia and Herzegovina, the Central Bank, the Indirect Tax Authority and the State Ombudsman, which are detailed below.

15. Throughout the reporting period Republika Srpska Prime Minister Dodik repeatedly claimed falsely that a large but indeterminate number of entity competencies had been "stolen" from the Republika Srpska and "imposed" at the State level by the Peace Implementation Council. In late June, he stated that, "under pressure", the Republika Srpska authorities transferred competencies to the State and that "we are no longer willing to give up on further authorities. On the contrary, we are considering which of these authorities we want back".[4] That statement of intent runs counter to the Peace Implementation Council declaration of October 2007,[5] and has served to undermine State building efforts undertaken thus far. It is worth noting that the statement marks a distinct change of policy on the part of Dodik's ruling party Alliance of Independent Social Democrats (SNSD), which

[4] See Slovak newspaper *Hospodarske Noviny*, 30 June 2008.

[5] "The Steering Board also re-emphasizes its concern regarding suggestions that certain reforms could be reversed unilaterally by entity decisions retrieving competencies previously transferred to the State. An entity cannot withdraw unilaterally from a previously agreed reform. The consolidation of the State level institutions must continue."

voted for all previous transfer agreements,[6] both while in opposition and in government.

16. The readiness of the Republika Srpska to meet these obligations was further called into question on 27 October when Prime Minister Dodik wrote to the High Representative informing him that he had hired a United States law firm to represent him in relation to the implementation of the Dayton Peace Agreement and the activities of the Office of the High Representative. The High Representative replied on 29 October "that the mandate and the work of the High Representative is a matter for the Peace Implementation Council and its Steering Board, as well as the United Nations Security Council. It is not a matter for a private entity." He further underlined that the Republika Srpska has the obligation in relation to the Dayton Peace Agreement to cooperate fully with the High Representative and his staff. The action of the Republika Srpska is yet another retrograde step and reflects the growing difficulties the Office of the High Representative is encountering from the Republika Srpska when it comes to meeting its obligations to cooperate with the High Representative under annex 10 of the Dayton Peace Agreement.

17. Public statements continued to be made on the issue of State competencies, culminating with a speech by Republika Srpska Prime Minister Dodik (wherein it was stated that the number of contested but unspecified competencies exceeded 60) and new conclusions stemming from the extraordinary session of the Republika Srpska National Assembly on 15 October. Ostensibly, the conclusions restated an SNSD election promise to regulate the transfer of competencies from entity to the State. However, they also subtly shifted and expanded the scope. Regulation by the Republika Srpska National Assembly on Republika Srpska to State transfers is acceptable. However, the Constitution of Bosnia and Herzegovina assigns no role to the Republika Srpska in regulating the competencies of the State.

18. On 29 October, the Minister for Foreign Affairs of France, Bernard Kouchner, representing the EU Presidency, the Secretary-General of the European Council, Javier Solana, and the European Commissioner, Olli Rehn, addressed a letter to the three members of the Bosnia and Herzegovina Presidency and the Prime Ministers of Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina and the Republika Srpska. In the letter they stressed the responsibilities deriving from the stated priority of Bosnia and Herzegovina of moving closer to the EU (and of signing the Stabilization and Association Agreement), warned against statements and acts challenging the structure of the State as defined by the Dayton Peace Agreement, and urged the addressees to demonstrate through acts and compromise their commitment to the country's future in the EU.

III. European Partnership requirements

19. Following the long-awaited adoption of two police reform laws in mid-April, Bosnia and Herzegovina signed the Stabilization and Association Agreement and the Stabilization and Association Agreement Interim Agreement with the EU on 16 June. Beyond this, progress has been slow in adopting and implementing the EU legislative agenda. The Bosnia and Herzegovina Council of Ministers adopted an

[6] Agreements in the areas of defence, the Indirect Tax Authority, the Missing Persons Institute, and the High Judicial and Prosecutorial Council.

incomplete European Partnership Action Plan, after serious delays, only in October. The work of the Bosnia and Herzegovina Parliamentary Assembly continues to reflect the inability of political leaders to meet each other halfway so that they may take the decisions required to ensure the country's progress towards EU membership. This is in danger of becoming a medium-term problem. In the first two years of its mandate, the Parliamentary Assembly adopted a total of 22 laws.[7] By comparison, it adopted 80 new laws in the same period in the previous mandate.[8] In this respect it is worth noting that it has been almost three years since the Bonn Powers were used to enact a new reform.

20. Overall, the Bonn Powers have been used on nine occasions during the reporting period, overwhelmingly in relation to non-cooperation with the International Criminal Tribunal for the former Yugoslavia and the extension of the State property process.

Police restructuring

21. The two police reform laws needed to clear the way for the Stabilization and Association Agreement were adopted in mid-April: they are the Law on a Directorate for Coordination of Police Bodies and Agencies for Support to Police Structure of Bosnia and Herzegovina, which defines separately the competencies of the Directorate for Coordination, the Forensics Agency, the Agency for Education and Training and the Agency for Police Support, which are new State agencies to provide coordination and support to State-level police bodies. The Law on Independent and Supervisory Bodies of Police Structure of Bosnia and Herzegovina establishes an Independent Board for selecting the heads and deputy heads of State-level police agencies, a Board for Complaints of Police Officials and a Public Complaints Board.

22. The police reform laws set a deadline of August 2008 for appointments to the above-mentioned agencies and boards. The Bosnia and Herzegovina authorities failed to make any appointments before the August deadline, although the Bosnia and Herzegovina Council of Ministers appointed members of the Board for Complaints of Police Officials on 7 October 2008. In relation to the other outstanding appointments, Bosnia and Herzegovina authorities have undertaken initial activities, as described below.

23. In June 2008, the Bosnia and Herzegovina Parliamentary Assembly formed an ad hoc commission to conduct the selection process for members of the Public Complaints Board and the Independent Board in line with the police reform laws. The Office of the High Representative/EU Special Representative, the European Union Police Mission and the United States Government/International Criminal Investigative Training Assistance Programme have been monitoring its work. In September 2008, the ad hoc commission organized the publication of vacancy announcements for these posts and is expected to interview candidates in November.

24. In July 2008, the Ministry of Security of Bosnia and Herzegovina formed a commission to carry out the selection procedure for the directors and deputy

[7] The total number of enacted legislation (i.e., new laws and amendments to laws) in this period was 78, including 23 amendments to laws previously enacted by the High Representative.

[8] The total number of enacted legislation (i.e., new laws and amendments to laws) in this period was 176, including 26 previously enacted by the High Representative.

directors of the new Forensics Agency, the Agency for Education and Training, and the Agency for Police Support. The Office of the High Representative/EU Special Representative, the European Union Police Mission and the United States Government/International Criminal Investigation Training Assistance Programme representatives monitored the work of the commission. At the end of July, the commission completed its mandate and forwarded a ranked list of candidates to the Ministry of Security.

25. The transitional provisions of the Law on the Directorate for Coordination of Police Bodies and Agencies for Support to Police Structure of Bosnia and Herzegovina also required that the Bosnia and Herzegovina authorities harmonize existing legislation with the police reform laws by mid-November 2008. In July 2008, the Ministry of Security of Bosnia and Herzegovina had established a commission for this purpose. In September 2008, the commission forwarded to the Ministry of Security draft amendments to the Law on Ministries and Other Bodies of Administration of Bosnia and Herzegovina, the Law on the State Investigation and Protection Agency, the Law on Border Police of Bosnia and Herzegovina, and the Law on Police Officials of Bosnia and Herzegovina. As of October 2008, the necessary legislation had not yet entered the Bosnia and Herzegovina Council of Ministers or parliamentary procedure.

IV. Entrenching the rule of law

26. The Office of the High Representative oversaw concrete progress by the authorities to deliver the fifth objective for the Office of the High Representative/EU Special Representative transition, "entrenchment of the rule of law". That progress was achieved despite serious attempts by political leaders elsewhere to undermine the independence of the judiciary and the mandate of State law enforcement agencies.

27. Positive outcomes were achieved with the adoption in April 2008 of the Bosnia and Herzegovina Law on Stay and Movement of Aliens and Asylum and the national justice sector reform strategy in June 2008. Development of the war crimes strategy is well under way. A more detailed examination of these ongoing efforts follows.

War crimes prosecution strategy

28. While well under way, the process of drafting a national strategy for addressing war crimes has yet to result in a final draft. Initiated 15 months ago, the process only very recently picked up momentum through the establishment of a strategy working group, established by the Ministry of Justice of Bosnia and Herzegovina and chaired by the chief prosecutor. A deadline of mid-November has been set for delivery of a draft strategy.

29. Unquestionably, there is a need for a strong national strategy for addressing war crimes, given the huge domestic caseload in Bosnia and Herzegovina and the planned closure of the International Criminal Tribunal for the former Yugoslavia by the end of 2010. A clear, well-articulated document will also provide substantial assurance to the Bosnia and Herzegovina public that all serious war crimes-related cases will receive appropriate and timely attention. It will also reassure the international community that the work of the Tribunal will continue under the responsible leadership of Bosnia and Herzegovina following its closure.

30. The Office of the High Representative will continue to support the efforts of Bosnia and Herzegovina in the development of an effective and relevant strategy and, where necessary, provide appropriate mediation to ensure its adoption by the competent authorities.

Passage of the Law on Stay and Movement of Aliens and Asylum

31. The Parliamentary Assembly of Bosnia and Herzegovina adopted the Law on Stay and Movement of Aliens and Asylum in April 2008, which came into force on 14 May 2008. The Office of the High Representative has continued to closely monitor the implementation of the provisions of the Law through participation in working groups, drafting the necessary rulebooks to ensure that the law is fully implemented.

National justice sector reform strategy

32. With strong support from the Peace Implementation Council Steering Board at its February 2008 session, in close coordination with all key international agencies and donors involved in the Bosnia and Herzegovina justice sector, and in collaboration with the Ministry of Justice of Bosnia and Herzegovina, the Office of the High Representative successfully mediated a compromise that allowed for the adoption of the national justice sector reform strategy in June. The strategy, which addresses the key elements of a functional justice sector, will be reviewed and improved over the next five years. Action plans to implement the five objectives of the strategy are due to be endorsed in December.

33. The final version of the strategy incorporated amended comments from the Ministry of Justice of the Republika Srpska, as well as additional amendments, supported by the Ministry of Justice of Bosnia and Herzegovina. These amendments were deemed necessary to prevent past reforms from being reopened and to promote, to the extent possible, the harmonization of laws between the State of Bosnia and Herzegovina, the entities and Brcko District. A number of essential reforms designed to create an effective and sustainable justice sector were ultimately omitted from the strategy owing to lack of consensus. For this reason, the strategy obliges the signatories to find a solution to these issues before or through the process of constitutional reform. The outstanding issues include the establishment of a Supreme Court of Bosnia and Herzegovina, the development of a single funding mechanism for the judiciary, and the adoption of single criminal and civil substantive and procedural legislation.

Other rule of law issues

34. The Office of the High Representative remains active in supporting the State judicial institutions of Bosnia and Herzegovina and specific projects that are deemed important to reinforce the independence, functionality and professionalism of the judiciary. One of these projects relates to the maintenance of international judges and prosecutors in the Bosnia and Herzegovina State Court and the Bosnia and Herzegovina Prosecutor's Office past the deadline for the completion of the transition period, in December 2009.

35. The recent reopening of a discussion on salaries and compensations to the judiciary, despite the fact that the issue was resolved in December 2005 through a decision of the High Representative, demonstrates the risk of local authorities

rolling back reforms already achieved. The risk of continued political interference in upholding the rule of law was also seen in the recent decision of the government of the Republika Srpska to refuse to cooperate with the State Investigation and Protection Agency and the Bosnia and Herzegovina Prosecutor's Office, by instructing the Republika Srpska Tax Administration to ignore a Bosnia and Herzegovina Prosecutor's order to hand over the tax returns of two private companies and financial reports of several of its ministries. Those actions violated several fundamental State laws and constituted explicit political interference with the independence of the judiciary and in operational policing.

36. The process of transition of the Bosnia and Herzegovina State Court Registry to full domestic ownership has faced recent delays in relation to the common services (maintenance, security, information technology, and telecommunications) owing to a lack of involvement by the competent State institutions, bringing into question the effective support on which the State judiciary will be able to rely in the future.

V. Cooperation with the International Criminal Tribunal for the former Yugoslavia

37. The arrest of Radovan Karadzic was an important event in Bosnia and Herzegovina. Although reactions to the arrest did not materially affect the physical security situation in Bosnia and Herzegovina, statements and actions by both Serb and Bosniak political leaders contributed to the worsening of the political climate. Certain Bosniak politicians asserted that a conviction of Karadzic would provide the legal basis for abolishing the Republika Srpska. In reaction, the Republika Srpska government promised support to Karadzic and his family members involved in his support network. While public discussion about the Karadzic case has waned somewhat, the trial process nevertheless promises to be a psycho-social irritant for as long as it continues. The continued support of the international community to The Hague and its judicial instruments remains essential to ensure that the Karadzic case is fully resolved.

38. The role of the Bosnia and Herzegovina Intelligence and Security Agency is to be commended for its excellent groundwork, which helped lead to the arrest of Tribunal fugitives Stojan Zuplijanin and Radovan Karadzic. The combined efforts of the Office of the High Representative, the North Atlantic Treaty Organization, EUFOR, the International Criminal Tribunal for the former Yugoslavia, the Bosnia and Herzegovina Intelligence and Security Agency, and the Republika Srpska police, all of which contributed to locating both fugitives, were critically facilitated by the various sanctions of the Office of the High Representative, the EU and the United States, and Bosnia and Herzegovina sanctions against members of the Persons Indicted For War Crimes support network.

39. The Tribunal fugitives Goran Hadzic and Ratko Mladic remain a priority for the Office of the High Representative, which will continue to play a coordinating role in Bosnia and Herzegovina with all agencies concerned with Tribunal initiatives.

40. Following the transfer of Radovan Karadzic to The Hague on 30 July, the High Representative repealed his orders to seize travel documents from family members

of Radovan Karadzic. That enabled Bosnia and Herzegovina authorities to return travel documents to Radovan Karadzic's wife, Ljiljana Zelen-Karadzic, daughter, Sonja Karadzic-Jovicevic, son, Aleksandar Karadzic, and son-in-law, Branislav Jovicevic. The Republika Srpska Centre for Public Safety East Sarajevo officially returned the documents to the Karadzic family on 31 July.

41. On 3 July, the International Criminal Tribunal for the former Yugoslavia acquitted Naser Oric, whose first instance sentence of two and a half years was overturned by the Appeal Chamber. Bosnian Serb and Serbian politicians condemned the Court decision, which nonetheless stated that war crimes against Serbs did undoubtedly occur in the area in which Oric's troops operated.[9] The lenient sentence of the Tribunal against former Army Commander of the Republic of Bosnia and Herzegovina Rasim Delic for failure to prevent war crimes of the Mujahedeen Brigade and his acquittal on three other counts was criticized by both Croat and Serb leaders.

42. In October, the State Prosecutor's Office ordered the arrest of four persons in the Prijedor area, who were suspected of participating in the murder of over 200 Bosniaks and Croats at Koricanske Stijene at Mount Vlasic in the summer of 1992.

43. At the urging of the Office of the High Representative, Federation Prime Minister Nedzad Brankovic set up an inter-agency working group to follow up on outstanding Human Rights Chamber and Constitutional Court decisions related to Serbs who went missing in Sarajevo. The Office of the High Representative will also continue to work with local authorities to locate the remains of Colonel Avdo Palic. Colonel Palic's widow, Esma Palic, is awaiting the outcome of her lawsuit filed in the European Court of Human Rights. The lawsuit against Bosnia and Herzegovina for the non-implementation of the Human Rights Chamber decision obliged the Republika Srpska to locate the remains and establish the circumstances around the disappearance of her husband.

44. It is also important to note the escape of Tribunal transfer case and war crimes convict Radovan Stankovic from the Republika Srpska prison in Foca in May 2007. The Republika Srpska has returned to duty the prison guards and prison director working at the time of the escape, and appears to have taken no serious efforts to apprehend this fugitive, who has sent threatening letters to Bosnia and Herzegovina officials from Serbia. The Republika Srpska suspended certain persons only after the State Prosecutor's Office launched its own investigation.

45. A similar problem has been identified in the Federation's Zenica prison, where Abdulhadim Maktouf, the first person convicted by the Bosnia and Herzegovina War Crimes Chamber, has been repeatedly granted furloughs from prison in violation of State law. Despite repeated inquiries and demands for remedial action by the Office of the High Representative, to date Federation officials have failed to take any meaningful action, and the case is now being investigated by the Federation Prosecutor.

46. The Stankovic and Maktouf incidents reinforce the continued need for the construction of a State prison staffed with professionally trained personnel. This project is currently under discussion between international donors and the Ministry

[9] As an aside, Federation police arrested Naser Oric in October on extortion charges.

of Justice. The Ministry has shown leadership on the issue, since assuming control of the project from the Bosnia and Herzegovina State Court Registry.

47. The mandates of the international judges and prosecutors at the War Crimes Chamber of the Court of Bosnia and Herzegovina are scheduled to expire and the positions taken over by domestic judges and prosecutors by the end of 2009. Bosnia and Herzegovina judicial institutions have approached the Office of the High Representative with the request to support the extension of the international presence beyond 2009. The International Criminal Tribunal for the Former Yugoslavia President Fausto Pocar and key donor organizations fully support this request.

VI. Reforming the economy

48. Economic trends in the first half of 2008 have indicated challenges to economic growth. Due to growing food and energy prices, inflation reached 9.9 per cent in July, the highest rate in the past 10 years. The trade deficit of Bosnia and Herzegovina in the first eight months of the present year was 3.2 billion euros, with exports increasing by 17 per cent and imports increasing by 21.8 per cent on an annual basis. The average monthly net wage in Bosnia and Herzegovina also increased by 19 per cent, amounting to 376 euros. There was better news on the employment front, with the unemployment rate down by nearly 6 per cent compared to last year.[10] It is now estimated at 23.4 per cent.

49. The reporting period has witnessed a number of developments with regard to the economic reform agenda. On the fiscal side, the establishment of the Bosnia and Herzegovina Fiscal Council, aimed at facilitating better coordination between the State and the entities on fiscal policies to ensure overall fiscal sustainability and macroeconomic stability, took a major step forward when the requisite law was adopted by the Bosnia and Herzegovina Parliamentary Assembly on 23 July. The Fiscal Council held its first meeting on 11 September and, at its session on 28 October, adopted its rules of procedure.

50. Elsewhere, the Governing Board of the Indirect Taxation Authority met on 24 June and agreed on a permanent methodology for allocation of indirect taxes and the appointment of the Bosnia and Herzegovina Minister of Finance and Treasury as the new Indirect Taxation Authority Governing Board Chairman as of 1 July. The Governing Board has held three meetings since then, but it has failed to tackle its agenda because of the persistent non-attendance of the Minister of Finance of the Republika Srpska.

51. Budget preparations for 2009 are under way at all levels of government. Unlike the entity budgets, the draft State budget, which is currently awaiting consideration by the Bosnia and Herzegovina Council of Ministers, is likely to encounter difficulties as the Republika Srpska has already announced its opposition to the proposed budget increase of 28 per cent compared to the 2008 budget. Serious efforts will be required to ensure that a satisfactory State budget sufficient to ensure the unimpeded functioning of the State institutions is adopted on time.

[10] See 2008 Labour Force Survey, Agency for Statistics of Bosnia and Herzegovina.

52. The Federation has been faced with serious challenges to its financial stability in the reporting period. Several factors have contributed to this, primarily unrealistic planning for 2008 and a significant increase in allocations for social support and the veteran population. The Federation will need to amend social and veterans' legislation, introducing a proper revision of its beneficiaries and establishing a single database of beneficiaries to prevent fraud, if it is to tackle the issue. Expenditures will also need to be reduced. The Federation War Veterans Ministry has initiated a new review of beneficiaries of war veterans and disability benefits as the first phase of its overall review. This should eventually result in a decrease in budgetary allocations to veterans.

53. A major step towards creating a single pharmaceutical market in Bosnia and Herzegovina was taken with the adoption of the Bosnia and Herzegovina Law on Pharmaceuticals and Medical Devices in June. On a far less positive note, the energy sector faced a serious challenge when the Republika Srpska government adopted a conclusion on 11 September announcing its unilateral withdrawal from TRANSCO. TRANSCO is the cornerstone of the Bosnia and Herzegovina energy sector reform, ensuring a continuous supply of electricity at defined quality standards and facilitating the creation of an electric energy market in Bosnia and Herzegovina and its integration into regional energy markets and development activities. Its existence is foreseen and required by the Bosnia and Herzegovina legislation, Peace Implementation Council declarations and European integration processes. Following a strong and united reaction from the international community, the Republika Srpska government replaced its original conclusion with a new text that did not go beyond legislation in force. The Office of the High Representative, the European Commission and the United States continue to work towards an agreement that will be satisfactory to both entities.

54. In addition to attempting to undermine TRANSCO, the Republika Srpska also attempted to amend the Bosnia and Herzegovina Central Bank Law. The amendment sought to determine the Republika Srpska share in the founding capital of the Central Bank and the method of distribution of its profit. The proposal was in violation of the Central Bank's independence as stipulated by the Constitution of Bosnia and Herzegovina and, as such, it was rejected on the grounds of lacking a constitutional basis.

55. With regard to other single economic space reforms, no progress was made on any issue requiring a transfer of competence, owing to ongoing opposition by the Republika Srpska to any transfers of competence to the Bosnia and Herzegovina institutions. These reforms include the establishment of a State-level banking supervision system. Although the impact of the global credit crisis on Bosnia and Herzegovina is yet to be seen, the Central Bank has taken a proactive approach, first providing 200 million euros in cash and then reducing the required reserve rate from 18 per cent to 14 per cent to provide additional liquidity to the banking sector. Additionally, on 23 October, the Bosnia and Herzegovina Council of Ministers adopted and forwarded amendments to the Law on Deposit Insurance in Banks of Bosnia and Herzegovina to the Bosnia and Herzegovina Parliamentary Assembly for adoption under urgent procedure. The amendment would raise the deposit insurance to 10,000 euros for physical persons.

VII. Public administration reform

56. The public administration reform continues to be a very slow and uneven process. The Federation and the Republika Srpska governments have proposed amendments to legislation that would change the status of civil servants and run contrary to the public administration reform strategy in Bosnia and Herzegovina, which was adopted by all levels of government in 2006.[11] In effect, these proposed changes would make civil servants political appointees and open the door to nepotism and political influence throughout the civil service administration in both entities. The Office of the High Representative, together with the European Commission, has reacted to these draft laws.

VIII. Defence reform

57. Little progress was made towards reaching an agreement on immovable defence property that will continue to serve defence purposes. In order to invigorate the process, in July, NATO Headquarters Sarajevo developed a "concept paper" outlining the key issues that should be regulated by a transfer agreement on immovable property. In September initial steps were undertaken to make a large survey of representative defence sites across Bosnia and Herzegovina. The survey provided sufficient information to begin the drafting process. Owing to local inactivity, NATO Headquarters Sarajevo began to develop its own draft transfer agreement as a catalyst for the Bosnia and Herzegovina Ministry of Defence to undertake its responsibilities.

58. The intensified dialogue programme was offered by NATO in large part because of progress made earlier in the year on the transfer of movable defence property to the State. Following the NATO summit in April, Bosnia and Herzegovina submitted an initial discussion paper as a first step in the intensified dialogue programme in July. NATO considered the paper at the first intensified dialogue meeting in early September.

59. Overall, Bosnia and Herzegovina worked hard to achieve progress within the NATO Partnership for Peace Programme. However, since it became necessary to develop and implement detailed action plans on a multiagency basis, the lack of staff capacity in Bosnia and Herzegovina ministries has begun to impose friction on Bosnia and Herzegovina's hitherto rapid progress through the various stages of the Partnership for Peace Programme.

IX. Intelligence reform

60. The functioning of the Bosnia and Herzegovina Intelligence and Security Agency continues to be consolidated through various donor capacity/institution building projects. Operational work in the field of counter-intelligence was further developed and the results of a policy of continuous cooperation with regional partners and police bore fruit with high profile arrests in the fields of counter-terrorism, war crimes and organized crime. Increased cooperation between key State

[11] Letter to the Federation authorities on 25 April and to the Republika Srpska authorities on 6 October.

actors is being facilitated through their efforts to establish a Bosnia and Herzegovina secret data protection system in line with Euro-Atlantic standards.

X. European Union military mission in Bosnia and Herzegovina

61. EUFOR continued to provide a military force of some 2,200 personnel and retained the capability to bring in over-the-horizon reserves. The EUFOR headquarters and peace enforcement capability remained based in the Sarajevo area, but liaison and observation teams (known on the ground as LOT teams) were present throughout the country. The presence of EUFOR on the ground provided the crucial reassurance that the population in general feel is necessary. Given the difficult political environment, it is important that EUFOR retain the capacity to deploy troops throughout Bosnia and Herzegovina at short notice. EUFOR continued to work closely with the Armed Forces of Bosnia and Herzegovina, especially in terms of handing over the additional military functions to the Bosnia and Herzegovina authorities.

62. EUFOR continues to play a key role in contributing to a safe and secure environment in Bosnia and Herzegovina, which additionally helps enable the Office of the High Representative and other international organizations to fulfil their respective mandates. As such, EUFOR continues to serve as an important factor of stability in Bosnia and Herzegovina at a time when the political situation is far from stable. For this reason, an extension of the mandate of EUFOR in its current configuration is important.

XI. Return of refugees and displaced persons

63. According to the latest figures from the Bosnia and Herzegovina Ministry for Refugees and Human Rights, there are 120,000 displaced persons in Bosnia and Herzegovina who have expressed their wish to return to their pre-war homes. Many practical barriers to return remain, including the absence of employment opportunities, inadequate funds for rebuilding, and difficulties in accessing health and social services in their former places of residence.

64. The Bosnia and Herzegovina Ministry for Refugees and Human Rights has completed its revision of the current strategy for the implementation of annex 7 of the Dayton Peace Agreement. Annex 7 guarantees refugees and displaced persons the right to return home.

65. The strategy, forwarded to the Council of Ministers for adoption, emphasizes the need to sustain the return of those people who have already returned. The Office of the United Nations High Commissioner for Refugees (UNHCR) has been actively involved in the drafting of a new strategy, together with the Office of the High Representative and other international stakeholders. UNHCR will remain the international lead agency in this field. The Ministry has led this exercise in a commendable way, ensuring the participation of all domestic and international stakeholders, and equally important, an active participation of the relevant civil society actors.

XII. Mostar

66. The recent local elections in Mostar passed without incident. However, the election results were surprising, in which the party Narodna Stranka — Radom za Boljitak (Peoples' Party — Working for Prosperity) won seven seats in the city elections, mainly at the expense of the Croat-prefix parties (HDZ Bosnia and Herzegovina, HDZ 1990). The emergence of Radom za Boljitak — a party dominated by Croats, but with cross-ethnic membership, and which does not identify itself as an "ethnicity based" party — along with significant gains by the Bosniak-dominated SDA could lead to the election in the City Council of a Bosniak as the mayor of Mostar. The position is currently held by a Croat from HDZ Bosnia and Herzegovina.

67. Successful implementation of the Mostar Statute has thus far hinged on a delicate balance of power between the main national parties, SDA and HDZ Bosnia and Herzegovina. With the Croat national parties diminished in the City Council (although HDZ Bosnia and Herzegovina maintains considerable political and economic influence in the Croat-majority areas of the city), the balance has shifted, creating a volatile political situation in Mostar, at least in the short term.

68. Such unpredictable circumstances may further delay the adoption of the Mostar Statute by the City Council, which is a key goal in the unification process. The Office of the High Representative remains the primary guarantor of the Statute until its adoption.

69. Meanwhile, the government of Herzegovina-Neretva Canton, based in Mostar, remained deadlocked through most of the summer over two issues: the financing of the long-suffering Croat-dominated Herzegovina Radio-Television (which the city of Mostar wrote off its own books in 2007), and the appointment of a Bosniak candidate as Police Commissioner. A Police Commissioner was appointed immediately after the local elections on 9 October, although questions still exist about whether he meets all legally defined requirements. On 29 October, in a surprise development, the Federation government passed a decision allocating 150,000 euros (75,000 euros each) to Hercegovacka Radio-Television and Radio Herceg Bosna.

XIII. Brcko District

70. Politics in Brcko District remained relatively stable over the reporting period. While developments within the District, with the exception of implementation of the 2008 elections results, are nearing the state where closure of Supervision is possible, a key issue remains unresolved. The provision of guarantees for the status of the District after Supervision, through modest additions to the Constitution of Bosnia and Herzegovina reached a stalemate when the Party for Bosnia and Herzegovina (SBiH), SNSD, Party of Democratic Progress (PDP) and HDZ 1990 each decided to support a law to the exclusion of the constitutional additions required by the Supervisor.

Constitutional amendments and law on Brcko District

71. In late 2007, the Brcko Supervisor consulted with the President of the Arbitral Tribunal for the Former Yugoslavia and concluded that a package of modest and

limited constitutional amendments and a minimalistic law would be the best way forward, by which the Constitutional Court of Bosnia and Herzegovina could replace the Arbitral Tribunal for disputes between the District and the entities, and thus create the conditions for ending Supervision. Initial consultations showed support in principle from a sufficient number of governing and opposition parties in the Bosnia and Herzegovina Parliamentary Assembly to assure comfortable passage of the additions.

72. By June 2008 draft amendments had been prepared and all key party leaders appeared to be in agreement. SBiH President Silajdzic, however, disavowed his earlier support, stating that he would accept only full constitutional reform, and that "only a law" was needed. In July, when invited to a meeting to sign an agreement on the text of the two small Constitution additions, SNSD asked that the process be postponed until after the October elections. Since that time, SNSD has adopted an official position that "only a law" is needed and that it will not support amendments. Further, SNSD also stated that Brcko needs to "return" to the Republika Srpska, a clear violation of annex 2 of the Dayton Peace Agreement, which stipulated that the Tribunal's award would be final and binding on all parties. Since the shift in the SNSD position, both HDZ 1990 and PDP, led by Mladen Ivanic, have also said that they see no need for constitutional amendments.

73. The closure of the Supervisory Regime goes hand-in-hand with the closure of the Tribunal. As such, the determination that the District works "effectively and apparently permanently" requires the Supervisor to ensure that the District has ways to protect its rights under the Tribunal's awards. The disputes over the last few years indicate that there is no such remedy available to the District except the Tribunal itself. This is not a sustainable arrangement. Only a constitutional amendment could give the District access to the domestic dispute resolution forum: the Constitutional Court of Bosnia and Herzegovina. Without it, the Supervisor will not be in a position to notify that the conditions for ending Supervision have been created.

74. The Supervisor has attempted to re-engage key parties on returning to the agreement reached earlier this year. However, SNSD maintains that it will not discuss the matter any more, despite its stated desire to be part of the government in Brcko District, which it officially does not recognize.

Brcko District institutions

75. With the Supervisory Order of 18 July, the Supervisor regulated finally the status of the Brcko District Election Commission, which the District Assembly failed to do for a year and a half. Even then, the Assembly failed to select and appoint two new members of the Commission following its extension under the law to seven members. On 18 September, the Supervisor issued a Supervisory Order appointing the seventh member of the Commission and fined councillors of the Assembly for their misconduct. By way of the Order, the Supervisor enabled the Commission to properly prepare and conduct the elections in full composition.

76. Much of the future functioning of District institutions will depend on the new bodies of governance emerging from the October elections. Essential for the Supervisor will be that the new bodies of Government are expressly committed to the Dayton Peace Agreement, the awards of the Arbitral Tribunal and the status of the District as a democratic, multi-ethnic unit of self-governance under the

sovereignty of the State and committed to protecting the status of the District after Supervision ends.

XIV. Bosnia and Herzegovina and the region

77. Compared to the previous reporting period, this one has been a relatively quiet time concerning regional issues. Unlike the Government of Montenegro and the Government of Macedonia,[12] which recognized Kosovo's independence in October, Bosnia and Herzegovina has continued to withhold its recognition.

78. There has been no progress during the period in sorting out border-demarcation issues with Serbia or Croatia, which have not yet signed border treaties with Bosnia and Herzegovina. On a positive note, a dispute in June with Serbia over its plans to seize and sell real estate and plants owned by Bosnia and Herzegovina companies in Serbia was resolved when the new Serbian government revoked the previous government's decision. Another positive development was the announcement of the Croatian Government that, following the escape of a convicted fraudster from Croatia to Bosnia and Herzegovina, it might be ready to amend its Constitution to permit the extradition of its citizens to foreign countries. Bosnia and Herzegovina would only have to change a law to establish reciprocity in such matters. Such a step would be a welcome development, and the parties are encouraged to address it. The reported detention and pursuit in Bosnia and Herzegovina of suspects connected to the recent murder of two Croatian journalists in Zagreb may also contribute to this positive change.

79. A lesser stir followed after Serbia announced that the projected Southern Stream natural gas pipeline could also serve the Republika Srpska. There are reportedly also plans to integrate the Republika Srpska and Serbian electricity industries.

XV. European Union Police Mission

80. As foreseen in its mandate, the strategic priorities of the European Union Police Mission remain the fight against organized crime and corruption, the attainment of police reform and the improvement of police accountability. As for the first priority, the Mission took the lead in coordinating the policing aspects of international efforts and ensured, in particular, closely targeted EU attention to major crime cases across Bosnia and Herzegovina through the EU Coordination Board for support in the fight against organized crime. The Mission advised on key operations and on the development of technical capabilities, including special investigative measures. Essential technical capabilities provided through the Community Assistance for Reconstruction, Development and Stabilization Programme were made operational during the reporting period. Through its Criminal Justice Unit, and in close coordination with my office, the Mission

[12] Some members of the Peace Implementation Council Steering Board recognize the former Yugoslav Republic of Macedonia by its constitutional name, and others do not. The Office of the High Representative takes no position on the issue and refers only to the Government of Macedonia, a body with which even States that do not recognize it by its constitutional name have signed agreements.

promoted better relations between police and prosecutors and closely cooperated with the High Judicial and Prosecutorial Council.

81. In the area of police reform, the European Union Police Mission, together with the Office of the High Representative/European Union Special Representative, has provided advice to the Bosnia and Herzegovina authorities on the implementation of the two police reform laws, adopted by the Parliamentary Assembly of Bosnia and Herzegovina in April 2008.

82. The European Union Police Mission also monitored police accountability and supported the development of good practices. The commemoration ceremonies in Srebrenica and eastern Bosnia and the aftermath of the arrest of Radovan Karadzic provided it with an opportunity to evaluate the handling of the police of highly sensitive public events. In both cases the Mission judged the performance of the local police as positive. It likewise supported the strengthening of the main State-level law enforcement agencies, the Border Police and the State Investigation and Protection Agency, in particular through co-location.

83. The European Union Police Mission is expected to maintain its current strength and activities for the remainder of the Council Joint Action on the Mission, which expires on 31 December 2009. A reorientation of the Mission may be required following a decision by the Peace Implementation Council on the Office of the High Representative/European Union Special Representative transition. The Head of Mission Brigadier General Vincenzo Coppola (Italy) ended his tour of duty on 31 October. The Council appointed Police Commissioner Stefan Feller (Germany) on 24 October 2008, effective as of 1 November 2008. I continue to work in close cooperation with the European Union Police Mission Head of Mission, who provides policing advice to my office, whereas I provide local political guidance to the Mission.

XVI. Non-certification of police officers

84. During the reporting period, the Bosnia and Herzegovina authorities continued to implement the provisions of the letter of April 2007 from the President of the Security Council to the Permanent Representative of Bosnia and Herzegovina to the United Nations on former police officers denied certification by the International Police Task Force. By the end of October 2008, model amendments prepared by the Office of the High Representative/European Union Special Representative and European Union Police Mission to bring domestic legislation in line with the letter had been adopted in all jurisdictions except the Republika Srpska.

85. In June 2008, associations of police officers denied certification by the International Police Task Force staged protests in front of the Office of the High Representative/European Union Special Representative building in Sarajevo. The associations later ended the protests after receiving assurances from Federation authorities related to retirement and social entitlements.

XVII. Media development

86. The media landscape continues to be fragmented with allegations of both harassment and direct physical and verbal assaults on journalists by elected and

appointed officials and interference with independent regulators. This is reflected in the drop in rank of Bosnia and Herzegovina from 19 to 36 on the press freedom index in the most recent world report on press freedom of Reporters sans frontières.

87. On a more positive note, a long-awaited breakthrough on the reform of the public broadcasting system was achieved with the adoption on 26 July of the Federation's public broadcasting framework law. It followed a ruling on 10 June by the Federation Constitutional Court that the law did not violate the vital national interest of the Croat people. While a welcome development, which finally cleared the way for the establishment of the country's public broadcasting corporation, the law differs in a number of important areas from the other Public Broadcasting Service laws that are already in place. For example, the Federation Parliament has taken an excessive role in the appointment procedure of the Board of Governors, with no other body except the Parliament itself advertising, selecting and appointing the Federation's members of the Board of Governors. The appointment of the Board is expected to be finalized shortly, after which the three public broadcasters are obliged to jointly streamline their activities by establishing the Corporation that will manage property, technical resources, programme acquisitions, etc., on their behalf. Croat political representatives continue to press for a channel that would broadcast exclusively in the Croat language, with the Croat caucus in the Bosnia and Herzegovina House of Peoples succeeding in having an initiative adopted that tasks the Council of Ministers to look into the matter.

88. The independence and functioning of the Communications Regulatory Agency has continued to be challenged. On 15 October, the Republika Srpska National Assembly adopted a declaration claiming that the Communications Regulatory Agency is for the second year in a row being run by an illegal body. The appointment of a new director of the Communications Regulatory Agency continues to be blocked by the ruling coalition, which, through its representatives in the Council of Ministers, continues to fail to meet its obligations to appoint a new director. No resolution of the matter appears to be in sight, thereby encouraging irresponsible political actors to challenge the legality of the decisions of the Agency.

XVIII. European Union Special Representative

89. In line with the mandate of the European Union Special Representative (Council Joint Action 2007/427/CFSP), my Office continued to promote the priorities listed in the European Partnership document of 2008. In addition to this, the European Union Special Representative has continued to coordinate and ensure the coherence of the EU presence in Bosnia and Herzegovina, in particular with regard to the European Union Police Mission and EUFOR.

90. In line with the EU enlargement strategy of 2007-2008, calling for better communication by the EU, the European Union Special Representative placed a particular emphasis on promoting a public campaign aimed to stimulate domestic support for EU integration. This has been done in close coordination with the European Commission and other EU actors on the ground in Bosnia and Herzegovina.

91. This initiative plays an important role in establishing the primacy of the European agenda and stimulating a dynamic reform process through which citizens in Bosnia and Herzegovina will actively demand their political representatives to

implement reforms required to improve their daily lives and to integrate the country into the EU. During the spring, the European Union Special Representative, together with a number of Bosnia and Herzegovina NGOs, visited 17 towns across Bosnia and Herzegovina and spoke directly with over 3,000 citizens about the EU integration process. These public discussions culminated in June with a nationwide televised debate.

92. The EU campaign is being supported by an interactive website (www.reci.ba), which has been used to develop the discussion on EU integration with citizens of Bosnia and Herzegovina. So far the website has received over 52,000 visits and 5,000 comments.

XIX. Future of the Office of the High Representative

93. The Peace Implementation Council Steering Board met on 24 and 25 June to review the situation in Bosnia and Herzegovina. The Steering Board recognized the progress that had been made by the authorities in Bosnia and Herzegovina to deliver the objectives and conditions for the Office of the High Representative/European Union Special Representative transition.[13] However, it also made clear that it had serious concerns about the prevailing political situation in the country, including the challenges to the country's sovereignty, territorial integrity and constitutional order, as well as to its State-level institutions.

94. The Peace Implementation Council Steering Board is scheduled to hold its next meeting in Brussels on 19 and 20 November, in order to review both the situation in Bosnia and Herzegovina and progress made by the authorities in Bosnia and Herzegovina to deliver the five objectives and two conditions for the Office of the High Representative/European Union Special Representative transition. At the time of writing, and as covered in the detail in the report, it is clear that these requirements will not be met by then. As a result, it is unlikely that the Peace Implementation Council Steering Board will be in a position to take a decision on the closure of the Office of the High Representative before its next meeting, scheduled for March 2009.

XX. Reporting schedule

95. In keeping with the proposals of my predecessor to submit regular reports for onward transmission to the Security Council, as required by Security Council resolution 1031 (1995), I herewith present my third regular report. Should the Secretary-General or any Security Council member require information at any other time, I should be pleased to provide an additional written update.

[13] See www.ohr.int/pic/default.asp?contentid=41874.

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Letter dated 14 November 2008 from the Permanent Representative of the Islamic Republic of Iran to the United Nations addressed to the President of the Security Council

I wish to refer to certain unfounded allegations and distorted references made about the Islamic Republic of Iran by the Permanent Representative of the United States in his statement at today's meeting of the Security Council on Iraq, and to bring the following to your attention in this regard:

It is not the first time, nor is it surprising, that the United States makes unfounded allegations against others in order to distract the international community's attention from its own failures and wrong policies in Iraq.

Iran has unambiguously condemned all acts of violence and terrorism in Iraq and has always extended its unwavering support to the Iraqi Government's efforts to stabilize and reconstruct the country. Iran has itself been a victim of the terrorist acts committed by a terrorist group that is stationed in Iraq and enjoys United States protection.

As an immediate neighbour, Iran has a vital interest in a democratic and prosperous Iraq. The Islamic Republic of Iran has spared no efforts to strengthen partnership and cooperation with Iraq and has already implemented many short-term and long-term projects aimed at helping the Iraqi people and Government to rebuild their country. Our support for peace, stability and development in Iraq has been, and continues to be, unabated.

We also wish to express our rejection of the use of a fake name for the Persian Gulf by the United States Representative in his statement in the Council today. The only correct and recognized historical name for the sea area between Iran and the Arabian Peninsula, as also emphasized by the United Nations itself, is the Persian Gulf, and accordingly, any use of fabricated names for this body of water is totally unacceptable and is of no legal value whatsoever.

I should be grateful if you would bring the content of this letter to the attention of the members of the Council, and circulate it as a document of the Security Council.

(*Signed*) Mohammad **Khazaee**
Ambassador
Permanent Representative

08-60448 (E) 171108

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Agenda item 83
Maintenance of international security — good-neighbourliness, stability and development in South-Eastern Europe

Security Council
Sixty-third year

Letter dated 13 November 2008 from the Permanent Representative of Greece to the United Nations addressed to the Secretary-General

With reference to the letter of the Permanent Representative of the former Yugoslav Republic of Macedonia to the United Nations, Ambassador Slobodan Tašovski, dated 6 November 2008, I wish to state that the allegations contained therein are totally baseless.

The military parade in Thessaloniki has been organized every year, on 28 October, since the liberation of Greece from the Nazi occupation, to commemorate the resistance of the Greek people to the military aggression of the Axis Powers during the Second World War. This year, upon the invitation of the Greek Defence Minister, Evangelos Meimarakis, the event was attended by his colleagues and Deputy Defence Ministers of the neighbouring countries Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Montenegro, Serbia and Turkey. Their presence conveyed a powerful and symbolic message of regional cooperation and good-neighbourly relations, a solid basis for peace and stability in South-Eastern Europe.

The Minister of Defence of the former Yugoslav Republic of Macedonia declined the invitation, informing his Greek counterpart that he could not attend because of unexpected commitments.

I wish to stress that an official protest by a third party over the organization of a military parade on the commemoration of the Greek resistance against the Axis Powers during the Second World War is unprecedented.

The customary slogans heard during these parades always reflect the celebrated occasion and are not directed against any country.

The whole question, as you may understand, is very sensitive and of great importance to the population of Thessaloniki, and of the northern Greek region of Macedonia.

08-60441 (E) 171108

I wish to underline that the Government of the former Yugoslav Republic of Macedonia has adopted an increasingly intransigent stance in the negotiations under United Nations auspices over the name issue and is always ready to blame Greece for its failings and shortcomings, as was the case recently, with regard to its relations with NATO and the European Union.

Let me state very clearly that Greece remains committed to reaching a speedy solution to the name issue, in order to improve neighbourly relations, enhance regional security and promote bilateral cooperation between our two countries. We have always said that such development would be in the interest of all concerned.

I should be grateful if the present letter could be circulated as a document of the General Assembly, under agenda item 83, and of the Security Council.

(*Signed*) John **Mourikis**
Ambassador
Permanent Representative